11–24–00 Friday
Vol. 65 No. 227 Nov. 24, 2000
Pages 70461–70642

Federal Register

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $638, or $697 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $253. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $9.00 for each issue, or $9.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 65 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: December 13, 2000, at 9:00 a.m.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 65, No. 227

Friday, November 24, 2000

Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 65, No. 227
Friday, November 24, 2000

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 946

[Docket No. FV00–946–1 IFR]

Irish Potatoes Grown in Washington; Exemption From Handling and Assessment Regulations for Potatoes Shipped for Experimental Purposes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule exempts potatoes shipped for experimental purposes from the handling and assessment regulations of the Washington State potato marketing order. The marketing order regulates the handling of potatoes grown in Washington, and is administered locally by the State of Washington Potato Committee (Committee). Experimental shipments of potatoes by handlers utilizing new and innovative packaging, including the commingling of different varieties of potatoes in the same package, or shipments of non-traditional experimental varieties of potatoes will be exempt from the grade, size, maturity, pack, inspection, and assessment requirements of the marketing order. By relaxing the requirements on shipments of such potatoes, this rule provides the industry with greater marketing flexibility and with the ability to investigate new methods for increasing producer returns. It also is expected to provide consumers with more choices in buying fresh potatoes.

DATES: Effective November 27, 2000; comments received by January 23, 2001 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698, or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: http://www.ams.usda.gov/fv/moab.html.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 113 and Marketing Order No. 946, both as amended (7 CFR part 946), regulating the handling of Irish potatoes grown in Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule exempts shipments of potatoes for experimentation from the grade, size, maturity, pack, inspection, and assessment requirements of the marketing order. By relaxing the requirements on new and innovative packaging and on non-traditional varieties of fresh potatoes, this rule provides the industry with greater marketing flexibility and the ability to investigate new methods for increasing producer returns, and provides consumers with more choices in buying fresh potatoes. The Committee unanimously recommended the exemption for experimental packs and varieties at its meeting held on June 8, 2000.

Section 946.51 of the order provides authority for the Committee to recommend the implementation, modification, suspension or termination of regulations. Section 946.52 provides the necessary authority for the Department to issue regulations, and to modify, suspend, or terminate such regulations. Furthermore, § 946.54 provides authority for the modification, suspension, or termination of handling regulations for the purpose of facilitating the handling of potatoes for special purposes, while § 946.55 provides for adequate safeguards to prevent such special purpose shipments from entering unauthorized outlets. The order's handling regulations, § 946.336, establish the grade, size, maturity, pack, and inspection requirements for potatoes grown in Washington. The

assessment rate for Washington potatoes is established in § 946.248, pursuant to § 946.41.

Handlers have expressed a desire to experiment with shipping potatoes of different varieties in the same container. This has been a problem, however, since the order requires that all potato varieties, as a minimum, meet U.S. No. 2 grade as defined in the U.S. Standards for Grades of Potatoes. These standards specify that a particular lot of potatoes has ''similar'' varietal characteristics.

Although the order's handling regulations do allow the mixing of any size and variety in a 3-pound or smaller container, handlers have been unable to ship a large enough quantity of the experimental packs to determine market feasibility. With this action, however, marketers will have the ability to experiment with various packs, including containers with a mixture of different potato varieties and sizes.

Prior to this action, the order's regulations required that all potatoes shipped to the fresh market, with the exception of those meeting the minimum quantity and special purpose exemptions, be inspected and assessed. The handling regulations did not provide adequate relief for commercially viable shipments of non-traditional or experimental potato varieties that could not meet minimum inspection requirements. Several producers and handlers within the production area are attempting to develop and market new varieties of potatoes. Some of the new varieties have irregular shapes or are small in size and will not meet minimum order requirements. In order to market these unique potatoes, handlers were required to utilize the order's minimum quantity exemption, which allows shipments up to, but not in excess of, 500 pounds of potatoes daily without regard to assessment and inspection requirements. This has prevented handlers from shipping larger quantities of these potatoes and from adequately determining their marketability and consumer acceptance. By allowing handlers to ship the quantities of new varieties they believe are necessary to determine marketability, this rule adequately addresses this issue.

As is currently required for all special purpose shipments, handlers shipping experimental potato packs or experimental potato varieties will need to apply for and obtain a Special Purpose Certificate from the Committee. To help ensure compliance with the revised provisions and to statistically track the shipments of experimental potato packs and varieties, the Committee will require that shipments made pursuant to this action be reported on the Special Purpose Shipment Report, as modified to include potatoes shipped for experimental purposes. Such reports will help the Committee in determining whether applicable requirements have been met and whether proper disposition has occurred, and will be furnished to the Committee for each shipment made pursuant to the applicable Special Purpose Certificate. The Committee's intent is to keep reporting requirements at the minimum level necessary to monitor compliance while determining the viability and extent of any changes in the packaging and marketing of Washington potatoes.

The Committee contends that the purpose of the order is to provide quality assurance and minimum grade standards for Washington potatoes and not to inhibit innovation. This rule thus provides the Washington potato industry with the ability to seek new and innovative ways to market its fresh potato crop without the costs and constraints of regulation that otherwise provide a necessary service to the industry. This rule provides the industry with the flexibility to explore new markets while enhancing product development, and helps in identifying niche markets which may benefit producers, handlers, buyers, and consumers of Washington State potatoes. Should a particular experimental pack or variety become commercially significant and some form of quality control or assessment reinstatement be needed, the Committee will consider further changes in the exemptions.

As referenced earlier, the Committee currently utilizes two forms for special purpose shipments. These are the Shippers Application for Special Purpose Certificate and the Special Purpose Shipment Report. To conform to this terminology, this rule also replaces the term ''Certificate of Privilege'' with the term ''Special Purpose Certificate'' wherever it appears in the Rules and Regulations and Handling Regulations established under the order.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 40 handlers of Washington potatoes who are subject to regulation under the marketing order and approximately 340 Washington potato producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. A majority of these handlers and producers may be classified as small entities, excluding receipts from other sources.

This rule exempts shipments of potatoes shipped for experimentation from the grade, size, maturity, pack, inspection, and assessment requirements prescribed under the regulations of the marketing order regulating the handling of potatoes grown in Washington. Pursuant to authority in §§ 946.51, 946.52, and 946.54, at its meeting on June 8, 2000, the Committee unanimously recommended that this exemption for experimental potato packs and varieties be added under § 946.336(d), *Special purpose shipments.* By relaxing the regulations, this rule provides the Washington potato industry with the enhanced ability to seek new and innovative methods of marketing its fresh potato crop. This rule provides the industry with the flexibility to explore new markets while enhancing product development, and helps to identify niche markets which may benefit producers, handlers, buyers, and consumers of Washington State potatoes.

The Committee believes that this rule will have a positive economic impact on the Washington potato industry. Producers and handlers will be able to concentrate on developing innovative new packaging and marketable new potato varieties without the costs associated with inspection and administrative assessments, as well as most of the costs associated with grading. Although not having specific information regarding the volume of potatoes that will be marketed through this exemption, the Committee estimates that the initial volume being shipped will be low and thus will have little negative impact on Committee assessment income. However, since one of the objectives of this action is to increase the utilization of fresh potatoes

produced in Washington, the Committee will consider changing the handling regulation and assessment requirements in the future, if needed, to help ensure quality control and adequate Committee income if the experimental shipments become commercially viable.

The current assessment rate is $0.002 per hundredweight of potatoes handled. Also, the cost of inspection under the marketing order is $0.06 per hundred weight of potatoes inspected. Handlers, both small and large, shipping potatoes under the experimental shipment exemption will not incur these costs. Any savings accrued will be proportional to the quantities of potatoes shipped under the experimentation exemption.

With regard to alternatives, we believe that this action best reflects the marketing and product development goals of the Washington potato industry.

The Committee estimates that initially four or five handlers may each apply for and obtain a Special Purpose Certificate for the purpose of making shipments of experimental packs or varieties. In addition, such handlers will be required to furnish to the Committee a Special Purpose Shipment Report for each shipment made under the experimental purposes exemption. The Committee estimates that the additional paperwork burden on handlers for this action will total less than ten hours. Such time is currently approved under OMB No. 0581–0178 by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Washington potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the June 8, 2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on a change to the regulations prescribed for the production area under the Washington potato marketing order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule relaxes requirements on Washington potato handlers and provides additional marketing opportunities; (2) early September was the beginning of the 2000–2001 shipping season and this rule should be in place as promptly as possible so that handlers can take advantage of the benefits resulting from this relaxation; (3) this recommendation was unanimously approved by the Committee at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 946 is amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

1. The authority citation for 7 CFR part 946 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Amend Part 946 as follows:

(a) Revise the undesignated center heading following § 946.104;

(b) Revise paragraphs (a)(3) and (4) in § 946.120; and

(c) Add a new paragraph (a)(5) to § 946.120 to read as follows:

Special Purpose Certificates

§ 946.120 Application.

(a) * * *

(3) Prepeeling outside the district where grown;

(4) Grading or storing at any specified location in Morrow or Umatilla Counties in the State of Oregon; and

(5) Experimentation.

* * * * *

3. In § 946.336, paragraphs (e)(3)(i), (iii), and (iv) are amended by removing the words ''Certificate of Privilege'' and adding the words ''Special Purpose Certificate'' in their place, the undesignated paragraph following paragraph (d)(7) is removed, paragraph (d) is revised, and a new paragraph (e)(6) is added to read as follows:

* * * * *

§ 946.336 Handling regulation.

* * * * *

(d) *Special purpose shipments.* (1) The minimum grade, size, cleanness, maturity, and pack requirements set forth in paragraphs (a), (b), and (c) of this section shall not apply to shipments of potatoes for any of the following purposes:

(i) Livestock feed;

(ii) Charity;

(iii) Seed;

(iv) Prepeeling;

(v) Canning, freezing, and ''other processing'' as hereinafter defined;

(vi) Grading or storing at any specified location in Morrow or Umatilla Counties in the State of Oregon, in District 5, or in Spokane County in District 1;

(vii) Export, except to Alaska and Hawaii and except as provided in paragraph (c)(2) of this section; or

(viii) Experimentation.

(2) Shipments of potatoes for the purposes specified in paragraphs (d)(1)(i) through (viii) of this section shall be exempt from inspection requirements specified in paragraph (g) of this section except shipments pursuant to paragraph (d)(6) of this section shall comply with inspection requirements of paragraph (e)(2) of this section. Shipments specified in paragraphs (d)(1)(i), (ii), (iii), (v) and (viii) of this section shall be exempt from assessment requirements as specified in § 946.248 and established pursuant to § 946.41.

* * * * *

(a) * * *

(6) Each handler desiring to make shipments of potatoes for experimentation shall:

(i) First apply to the committee for and obtain a Special Purpose Certificate to make shipments for experimentation;

(ii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Special Purpose Certificate.

* * * * *

Dated: November 15, 2000.

Ronald L. Cioffi,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–29944 Filed 11–22–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1011

[DA–01–01]

Milk in the Tennessee Valley Marketing Area; Termination of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; termination order.

SUMMARY: This document terminates the remaining administrative provisions of the Tennessee Valley Federal milk marketing order (Order 1011). All of the monthly operating provisions of the order were terminated as of October 1, 1997.

EFFECTIVE DATE: November 27, 2000.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932, *Nicholas.Memoli@usda.gov*.

SUPPLEMENTARY INFORMATION: The Department is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this final rule will not have a significant economic impact on a substantial number of small entities because the Tennessee Valley milk order ceased operating as of October 1, 1997, and there are no handlers or dairy farmers that will be affected by the termination of its one remaining administrative provision.

Preliminary Statement

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act, as amended (7 U.S.C. 601–674), and of the order regulating the handling of milk in the Tennessee Valley marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on July 3, 1997 (62 FR 36022), concerning a proposed termination of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon.

In total, 11 comments were received, 3 supporting the termination, 3 opposed to it, and 5 taking no position on the termination but offering comments on questions raised by the Department in the notice of proposed termination.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, the Administrator of the Agricultural Marketing Service found and determined that the order regulating the handling of milk in the Tennessee Valley marketing area (7 CFR 1011) did not tend to effectuate the declared policy of the Act and terminated all of the operating provisions of the order on September 5, 1997, effective October 1, 1997 (62 FR 47923).

Statement of Consideration

This rule terminates the last remaining provision of the Tennessee Valley Federal milk marketing order effective one day after publication of this final rule in the **Federal Register**.

On May 12, 1997, the Department issued a partial final decision on proposed amendments to the Carolina, Southeast, Tennessee Valley, and Louisville-Lexington-Evansville milk orders (i.e., Orders 5, 7, 11, and 46) which was published on May 20, 1997 (62 FR 27525). The final decision document contained proposed amended orders for the 4 southeast marketing areas, including the Tennessee Valley order, and directed the respective market administrators of the 4 orders to ascertain whether producers approved the issuance of the amended orders. The final decision concluded that amended orders were needed to effectuate the declared policy of the Act.

Less than two-thirds of the producers whose milk is pooled in the Tennessee Valley marketing area approved the issuance of the proposed amended order. The Act requires approval by at least two-thirds of the producers before an amended order may be issued.

Pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Tennessee Valley marketing area, the operating provisions of the Tennessee Valley Federal milk order were terminated effective October 1, 1997. Notice of the termination was published in the **Federal Register** on September 12, 1997 (62 FR 47923). Certain administrative provisions were left intact at that time so that the market administrator, in his capacity as the order's liquidating agent, could disburse all of the money remaining in the administrative, producer-settlement, and marketing service funds established under the order. These tasks having been completed, the remaining provisions of the order are unnecessary and may be removed immediately. Therefore, it is determined that the remaining provisions of Part 1011 no longer tend to effectuate the declared policy of the Act and are hereby terminated pursuant to provisions of 7 U.S.C. 608(c)(16)(A).

For the same reasons, it is hereby found and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice or engage in further rulemaking prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1011

Milk marketing orders.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA [REMOVED AND RESERVED]

For the reasons set forth in the preamble and under the authority 7 U.S.C. 601–674, 7 CFR part 1011 is removed and reserved.

Dated: November 15, 2000.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 00–29943 Filed 11–22–00; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–1089]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; staff commentary.

SUMMARY: The Board is publishing a final rule amending the staff commentary that interprets the requirements of Regulation Z (Truth in Lending). The Board is required to adjust annually the dollar amount that triggers requirements for certain mortgages bearing fees above a certain amount. The Home Ownership and Equity Protection Act of 1994 (HOEPA) sets forth rules for home-secured loans in which the total points and fees payable by the consumer at or before loan consummation exceed the greater of $400 or 8 percent of the total loan amount. In keeping with the statute, the Board has annually adjusted the $400 amount based on the annual percentage change reflected in the Consumer Price Index that is in effect on June 1. The adjusted dollar amount for 2001 is $465.

EFFECTIVE DATE: January 1, 2001.

FOR FURTHER INFORMATION CONTACT: Minh-Duc T. Le, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667. For the users of Telecommunications Device for the Deaf only, please contact Janice Simms at (202) 872–4984.

SUPPLEMENTARY INFORMATION:

I. Background

The Truth in Lending Act (TILA; 15 U.S.C. 1601–1666j) requires creditors to disclose credit terms and the cost of consumer credit as an annual percentage rate. The act requires additional disclosures for loans secured by a consumer's home, and permits consumers to cancel certain transactions that involve their principal dwelling. TILA is implemented by the Board's Regulation Z (12 CFR part 226). The Board's official staff commentary (12 CFR part 226 (Supp. I)) interprets the regulation, and provides guidance to creditors in applying the regulation to specific transactions.

In 1995, the Board published amendments to Regulation Z implementing HOEPA, contained in the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, 108 Stat. 2160 (60 FR 15463). These amendments are contained in § 226.32 of the regulation and impose substantive limitations and additional disclosure requirements on certain closed-end mortgage loans bearing rates or fees above a certain percentage or amount. As enacted, the statute requires creditors to comply with the HOEPA rules if the total points and fees payable by the consumer at or before loan consummation exceed the greater of $400 or 8 percent of the total loan amount. TILA and Regulation Z provide that the $400 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index (CPI) that was reported on the preceding June 1. (15 U.S.C. 1602(aa)(3) and 12 CFR 226.32(a)(1)(ii)). The Board adjusted the $400 amount to $451 for the year 2000.

The Bureau of Labor Statistics publishes consumer-based indices monthly, but does not ''report'' a CPI change on June 1; adjustments are reported in the middle of each month. The board uses the CPI–U index, which is based on all urban consumers and represents approximately 80 percent of the U.S. population, as the index for adjusting the $400 figure. The adjustment to the CPI–U index reported by the Bureau of Labor Statistics on May 15, 2000, was the CPI–U index ''in effect'' on June 1, and reflects the percentage increase from April 1999 to April 2000. The adjustment to the $400 figure below reflects a 3.1 percent increase in the CPI–U index for this period and is rounded to whole dollars for ease of compliance.

II. Adjustment and Commentary Revision

For the reasons set forth in the preamble, for purposes of determining whether a mortgage transaction is covered by 12 CFR 226.32 (based on the total points and fees payable by the consumer at or before loan consummation), a loan is covered if the points and fees exceed the greater of $465 or 8 percent of the total loan amount, effective January 1, 2001. Comment 32(a)(1)(ii)–2, which lists the adjustments for each year, is amended to reflect the dollar adjustment for 2001. Because the timing and method of the adjustment is set by statute, the Board finds that notice and public comment on the change are unnecessary.

III. Regulatory Flexibility Analysis

The Board certifies that this amendment will not have a substantial effect on the regulated entities because the only change is to raise the exemption level for transactions requiring HOEPA disclosures.

List of Subjects in 12 CFR Part 226

Advertising, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

For the reasons set forth in the preamble, the Board amends Regulation Z, 12 CFR part 226, as set forth below:

PART 226—TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 226 would continue to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

2. In Supplement I to Part 226, under *Section 226.32—Requirements for Certain Closed-End Home Mortgages,* under paragraph 32(a)(1)(ii), paragraph 2.vi. is added.

Supplement I to Part 226—Official Staff Interpretations

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

* * * * *

§ 226.32—Requirements for Certain Closed-End Home Mortgages

32(a) Coverage.

* * * * *

Paragraph 32(a)(1)(ii).

* * * * *

2. Annual adjustment of $400 amount.

* * * * *

vi. For 2001, $465, reflecting a 3.1 percent increase in the CPI–U from June 1999 to June 2000, rounded to the nearest whole dollar.

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, November 20, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–30044 Filed 11–22–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket Nos. 00P–1275 and 00P–1276]

Food Labeling: Health Claims; Plant Sterol/Stanol Esters and Coronary Heart Disease; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Interim final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting an interim final rule that appeared in the **Federal Register** of September 8, 2000 (65 FR 54686). The interim final rule authorized the use in food labeling of health claims on the association between plant sterol/stanol esters and reduced risk of coronary heart disease (CHD), pending consideration of public comment and publication of a final regulation. The interim final rule was published with inadvertent errors. This document corrects those errors.

DATES: Effective September 8, 2000.

FOR FURTHER INFORMATION CONTACT: James E. Hoadley, Center for Food Safety and Applied Nutrition (HFS–832), 200 C St. SW., Washington, DC 20204, 202–205–5372.

SUPPLEMENTARY INFORMATION: In FR Doc. 00–22892, appearing on page 54686 in the **Federal Register** of Friday, September 8, 2000, the following corrections are made:

1. On page 54687, in the second column, under the heading, ''II. Petitions for Plant Sterol/Stanol Esters and Reduced Risk of CHD,'' in the 17th line, the phrase ''extension of 30 days'' is corrected to read ''extension of 28 days''.

2. On page 54687, in the second column, in the 18th line, at the end of the paragraph, the following sentence is added: ''This interim final rule went on public display at the Office of the Federal Register on September 5, 2000.''

3. On page 54687, in the second column, in the last sentence of the first full paragraph, the phrase ''an extension of the deadline to publish a proposed regulation'' is corrected to read ''an extension of the deadline for the petition''.

4. On page 54687, in the second column, after the last sentence of the first full paragraph, the following sentence is added: ''As previously noted, this interim final rule went on public display at the Office of the Federal Register on September 5, 2000.''

5. On page 54687, in the third column, in the last paragraph, under the heading ''a. *Plant esterol esters*'', beginning in the 4th line, the phrase ''esterified to food-grade fatty acids'' is corrected to read ''esterified with food-grade fatty acids''.

6. On page 54688, in the second column, under the heading ''b. *Plant stanol esters*'', beginning in the 4th line, the phrase ''esterified to food-grade fatty acids'' is corrected to read ''esterified with food-grade fatty acids''.

7. On page 54693, in the first column, in the first full paragraph, in the 17th line, the phrase ''esterified to sunflower oil'' is corrected to read ''esterified with sunflower oil''.

8. On page 54693, in the third column, in the first full paragraph, in the 35th line, the symbol ''N'' is corrected to read ''n''.

9. On page 54715, in the third column, in Ref. 37, the phrase ''London: Academic'' is corrected to read ''London: Academic Press''.

10. On page 54716, in the first and second columns, in Refs. 60 and 63, the word ''Atheroscelrosis'' is corrected to read ''Atherosclerosis''.

11. On page 54717, in the second column, in Ref. 102, the word ''IsokaAE4aAE4ntaAE4'' is corrected to read ''Isokaanta''.

§ 101.83 [Corrected]

The following corrections are made in § 101.83 *Health claims: plant sterol/stanol esters and risk of coronary heart disease (CHD).*

12. On page 54718, in the second column, in paragraph (c)(2)(ii)(A)(*2*), in the 4th line, the phrase ''February 1, 2000, the method,'' is corrected to read ''February 1, 2000. The method,''.

13. On page 54719, in the second column, in paragraph (e)(1)(i), and in the third column, in paragraphs (e)(1)(ii), (e)(2)(i), and (e)(2)(ii), the phrase ''serving of [name of the food] supplies grams'' is corrected to read ''serving of [name of the food] supplies _____ grams''.

Dated: November 20, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–30045 Filed 11–21–00; 9:47 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Offenders Serving Terms of Supervised Release Imposed by the Superior Court of the District of Columbia

AGENCY: United States Parole Commission, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The U.S. Parole Commission is publishing interim rules to govern the supervision of released prisoners who are serving terms of supervised release imposed by the Superior Court of the District of Columbia. The Commission has assumed this function pursuant to the National Capital Revitalization and Self-Government Improvement Act of 1997. Under that Act, an offender who is convicted of a crime under the District of Columbia Code that was committed on or after August 5, 2000, will receive a term of supervised release to follow the completion of the offender's term of imprisonment. Because parole is abolished for these offenders, supervised release will replace parole as the means of providing them with post-imprisonment supervision and treatment in order to minimize their chances of recidivism and protect the public safety.

DATES: Effective Date: December 26, 2000. Comments must be received by January 30, 2001.

ADDRESSES: Send comments to office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Pamela A. Posch, Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: Under the National Capital Revitalization and Self-Government Improvement Act of 1977, the District of Columbia was required to amend the District of Columbia Code in order to accomplish major changes in sentencing for offenses committed on or after August 5, 2000. Among those changes was a requirement that parole be abolished for many offenses, and replaced by terms of supervised release to be imposed at the time of sentencing and served following release from imprisonment. The District of Columbia carried out these requirements through the Sentencing Reform Amendment Act

of 2000, which abolishes parole and establishes maximum terms of supervised release to be imposed at the time of sentencing, together with maximum penalties to be followed in the event a term of supervised release is revoked. This law applies only to offenders who are convicted of crimes committed on or after August 11, 2000. (It does not apply to offenders who are serving sentences that include eligibility for parole.)

The Revitalization Act also provided that offenders who are sentenced to serve terms of supervised release imposed by the Superior Court of the District of Columbia shall be subject to the authority of the U.S. Parole Commission. The Commission was given the same authority over Superior Court supervised releasees as is exercised by the U.S. District Courts over federal supervised releasees under 18 U.S.C. 3583. The sole exception is that any extension of a term of supervised release imposed by the Superior Court must be ordered by the Superior Court. Further, the Revitalization Act specifies that the procedures to be followed by the Commission in exercising its authority over Superior Court supervised releasees are the procedures applicable to federal parolees under the Parole Commission and Reorganization Act of 1976, as set forth in Chapter 311 of Title 18, United States Code.

The Commission is, accordingly, soliciting public comment on the regulations it proposes to adopt in order to carry out this new function. The interim regulations cover all aspects of the supervised release function, from the commencement of a term of supervised release and the setting of the conditions of release, to the procedures and penalty provisions governing the revocation process in a case where the conditions of release are violated by the releasee. The regulations implement the substantive provisions of 18 U.S.C. 3583 and D.C. Code 24–1233 (the relevant provisions of the Revitalization Act), and incorporate the relevant procedural requirements of Chapter 311 of Title 18, U.S. Code, as implemented at 28 CFR part 2, subpart A.

To assist the Commission in making the determinations required by the supervised release function, the Commission is also proposing to adopt guidelines both for early termination decisions and for decisions to reimprison following revocation of supervised release. The early termination guidelines are based on the guidelines currently applicable to D.C. Code parolees with respect to the release of such parolees from active supervision. See CFR 2.95 (2000). The guidelines for determining the length of any new term of imprisonment to be imposed upon revocation of supervised release are the reparole guidelines made applicable to federal parolees at 28 CFR 2.21 and to D.C. Code parolees at 28 CFR 2.81. However, the maximum authorized terms of reimprisonment and further supervised release that may be imposed upon revocation of supervised release are established by 18 U.S.C. 3583(h) and by the Sentencing Reform Amendment Act of 2000. These maximum penalty provisions, which are significantly different from those applicable in the context of parole revocations, are set forth in these regulations. Because the applicable penalties are determined by reference to the original offense of conviction, a comprehensive reference table is set forth in these interim regulations so that hearing examiners, supervised releasees, and their representatives, will clearly understand the limits within which the Commission's decision is to be made at a revocation hearing.

These interim rules are being made effective as interim rules so that any offender who commences a term of supervised release in the near future can be effectively supervised pending consideration of final regulations. Public comment is invited on all aspects of these interim rules, and will be considered by the Commission prior to adopting final rules.

Implementation

The interim regulations set forth below will be applied solely to offenders serving terms of supervised release that have been imposed by the Superior Court of the District of Colombia for crimes committed on or after August 5, 2000. There is no retroactive application to other offenders. Supervision will be provided by the Court Services and Offender Supervision Agency (CSOSA). In the case of terms of supervised release under the District of Columbia Code that are imposed by the U.S. District Court for the District of Columbia, such terms of supervised release will be under the exclusive jurisdiction of the U.S. District Court for the District of Columbia and supervision will be carried out by the U.S. Probation Office rather than CSOSA.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that these interim rules do not constitute a significant rule within the meaning of Executive Order 12866. The rules will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b), and are deemed by the Commission to be rules of agency practice that will not substantially effect the rights or obligations of non-agency parties pursuant to Section 804(3)(C) of the Congressional Review Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and parole, Prisoners.

The Amendment

Accordingly, the U.S. Parole Commission is adopting the following amendment to 28 CFR part 2.

PART 2—[AMENDED]

1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR part 2 is amended to add a new subpart D consisting of §§ 2.200 through 2.219, which is to read as follows:

Subpart D—District of Columbia Code Supervised Releasees

Sec.

Subpart D—District of Columbia Code Supervised Releasees

§ 2.200 Authority, jurisdiction, and functions of the U.S. Parole Commission with respect to offenders serving terms of supervised release imposed by the Superior Court of the District of Columbia.

(a) The U.S. Parole Commission has jurisdiction, pursuant to D.C. Code 24–1233(c)(2), over all offenders serving terms of supervised release imposed by the Superior Court of the District of Columbia under the Sentencing Reform Amendment Act of 2000.

(b) The U.S. Parole Commission shall have and exercise the same authority with respect to a term of supervised release as is vested in the United States district courts by 18 U.S.C. 3583(d) through(i), except that:

(1) The procedures followed by the Commission in exercising that authority shall be those set forth with respect to offenders on federal parole at 18 U.S.C. 4209 through 4215 (Chapter 311 of 18 United States Code); and

(2) An extension of a term of supervised release under subsection (e)(2) of 18 U.S.C. 3583 may only be ordered by the Superior Court upon motion from the Commission.

(c) Within the District of Columbia, supervision of offenders on terms of supervised release under the Commission's jurisdiction is carried out by the Community Supervision Officers of the Court Services and Offender Supervision Agency (CSOSA), pursuant to D.C. Code 24–1233(c)(2). Outside the District of Columbia, supervision is carried out by United States Probation Officers pursuant to 18 U.S.C. 3655. For the purpose of this subpart, any reference to a ''Supervision Officer'' shall include both a Community Supervision Officer of CSOSA and a United States Probation Officer in the case of a releasee who is under supervision outside the District of Columbia.

§ 2.201 Period of supervised release.

A period of supervised release that is subject to the Commission's jurisdiction begins to run on the day the offender is released from prison and continues to the expiration of the full term imposed by the Superior Court, unless early termination is granted by the Commission. In the case of multiple terms of supervised release imposed by the Superior Court, all terms are deemed to be absorbed by the longest term imposed, which shall be the controlling term for all purposes under this part, including the calculation of the maximum authorized penalties that may be imposed if supervised release is revoked. A term of supervised release shall run concurrently with any federal, state, or local term of probation, parole or supervised release for another offense, but does not run while the offender is imprisoned in connection with a conviction for a federal, state, or local crime unless the period of imprisonment is less than 30 days. Such interruption of the term of supervised release is automatic, and is not dependent upon the issuance of a warrant or an order of revocation by the Commission.

§ 2.202 Prerelease procedures.

(a) At least three months, but not more than six months, prior to the release of a prisoner who has been sentenced to a term or terms of supervised release by the Superior Court, the responsible prison officials shall have the prisoner's release plan forwarded to CSOSA (or to the appropriate U.S. Probation Office) for investigation. If the CSOSA Supervision Officer (or U.S. Probation Officer) believes that any special condition of supervised release should be imposed prior to the release of the prisoner, he shall forward a request for such condition to the Commission. The Commission may, upon such request or of its own accord, impose any special condition in addition to the standard conditions specified in § 2.204, which shall take effect on the day the prisoner is released.

(b) Upon the release of the prisoner, the responsible prison officials shall instruct the prisoner, in writing, to report to his assigned Supervision Officer within 72 hours, and shall inform the prisoner that failure to report on time shall constitute a violation of supervised release. If the prisoner is released to the custody of other authorities, the prisoner shall report to his Supervision Officer within 72 hours after his release from the physical custody of such authorities. If he is outside the District of Columbia and is unable to report to the Supervision Officer to whom he is assigned within 72 hours, he shall report instead to the nearest U.S. Probation Office.

§ 2.203 Certificate of supervised release.

When an offender who has been released from prison to serve a term of supervised release imposed by the Superior Court reports to his Supervision Officer for the first time, the Supervision Officer shall deliver to the releasee a certificate bearing the conditions of supervised release imposed by the Commission and shall explain the conditions to the releasee.

§ 2.204 Conditions of supervised release.

(a) The following conditions shall apply to every term of supervised release, and are deemed by the Commission to be necessary to provide adequate supervision and to protect the public from further crimes of the releasee:

(1) The releasee shall not commit any federal, state, or local crime during the term of supervision, nor shall he associate with persons engaged in criminal activity. The releasee shall report within two days to his Supervision Officer if he is arrested or questioned by any law enforcement officer.

(2) The releasee shall not drink alcoholic beverages to excess. He shall not purchase, possess, use or administer any controlled substance unless prescribed for the releasee by a physician. The releasee shall not frequent places where such controlled substances are illegally sold, dispensed, used, or given away.

(3) The releasee shall submit to a drug urinalysis test, within 15 days of being placed on supervision, and to at least two periodic drug tests thereafter, as ordered by his Supervision Officer. The Commission may modify or suspend this condition if the record indicates that there is a low risk of future substance abuse by the releasee.

(4) The releasee shall submit to a drug or alcohol test at any time during the term of supervision, whenever such testing is ordered by his Supervision Officer.

(5) The releasee shall not leave the limits fixed by his certificate of supervised release without permission from his Supervision Officer.

(6) The releasee shall notify his Supervision Officer of the address where he will reside and of any change in his place of residence within two days of such change.

(7) The releasee shall make a complete and truthful written report (on a form provided for that purpose) to his Supervision Officer between the first and third day of each month. He shall also report to his Supervision Officer at other times as the officer directs, providing complete and truthful information.

(8) The releasee shall not enter into any agreement to act as an informant or special agent for any law-enforcement agency without prior authorization from the Commission.

(9) The releasee shall work regularly unless excused by his Supervision Officer, and shall support his legal dependants, if any, to the best of his ability. He shall report within two days to his Supervision Officer any changes

in his employment or employment status.

(10) The releasee shall not associate with persons who have a criminal record without the permission of his Supervision Officer.

(11) The releasee shall not possess a firearm or other dangerous weapon.

(12) The releasee shall permit visits by his Supervision Officer to his residence and to his place of business or occupation. He shall permit confiscation by his Supervision Officer of any material which the officer believes may constitute contraband in the releasee's residence, place of business or occupation, vehicle, or on his person. The Commission may also, when a reasonable basis for so doing is presented, modify the conditions of supervised release to require the releasee to permit his Supervision Officer to conduct searches and seizures of concealed contraband on the releasee's person, and in any building, vehicle, or other area under the releasee's control, at such times as the officer shall decide.

(13) The releasee shall make a diligent effort to satisfy any fine, restitution order, court costs or assessment, and/or court ordered child support or alimony payment that has been, or may be, imposed, and shall provide such financial information as may be requested by his Supervision Officer that is relevant to the payment of the obligation. If unable to pay the obligation in one sum, the releasee shall cooperate with his Supervision Officer in establishing an installment payment schedule. In determining whether to revoke supervised release for non-compliance with this condition, the Commission shall consider the releasee's employment status, earning ability, financial resources, and any other special circumstances that may have a bearing on the matter. Revocation shall not be ordered unless the releasee is found to be deliberately evading or refusing compliance.

(14) If released to the District of Columbia, the releasee shall submit to the sanctions imposed by his Community Supervision Officer (within the limits established by the CSOSA Administrative Sanctions Schedule) if the Community Supervision Officer finds that the releasee has tested positive for illegal drugs or that he has committed any non-criminal violation of the conditions of supervised release. Graduated sanctions may include community service, curfew with electronic monitoring, and/or a period of time in a community corrections center. The releasee's failure to cooperate with a graduated sanction imposed by his Supervision Officer will subject the releasee to the issuance of a summons or warrant by the Commission, and a revocation hearing at which the releasee will be afforded the opportunity to contest the allegations upon which the sanction was based. In addition, the Commission may override the imposition of a graduated sanction at any time and issue a warrant or summons if it believes that the releasee is a risk to the public safety or that he is not complying with this condition in good faith.

(b) The Commission or a member thereof may at any time modify the conditions of supervised release, which may include imposing additional conditions. In so doing, the Commission shall consider the factors referenced in 18 U.S.C. 3583(d). The releasee shall receive notice of the proposed modification and unless waived shall have ten days following receipt of such notice to express his views thereon. Following the ten day period, the Commission shall have 21 days, exclusive of holidays, to modify the conditions of supervised release. The ten-day notice requirement shall not apply to a modification of the conditions of release in the following circumstances:

(1) Following a revocation hearing;

(2) Upon a finding that immediate modification of the conditions of release is required to prevent harm to the releasee or to the public; or

(3) In response to a request by the releasee.

(c) The Commission may, as a condition of supervised release, require the releasee to reside in a community corrections center, or to participate in the program of a residential treatment center, or both, for all or part of the period of supervised release, as part of a program of treatment.

(d) The Commission may require the releasee to remain at his place of residence during non-working hours and, if the Commission so directs, to have compliance with this condition monitored by telephone or electronic signaling devices. A condition under this paragraph may be imposed only as an alternative to incarceration.

(e) The Commission may require a releasee, when there is evidence of prior or current alcohol dependence or abuse, to participate in an alcohol aftercare treatment program. In such a case, the Commission will require that the releasee abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment.

(f) The Commission may require a releasee, where there is evidence of prior or current drug dependence or abuse, to participate in a drug treatment program, which shall include at least two periodic tests to determine whether the releasee has reverted to the use of drugs (including alcohol). In such a case, the Commission will require that the releasee abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment.

(g) If the conviction resulting in the term of supervised release is the releasee's first conviction for a crime of domestic violence as defined in 18 U.S.C. 3561(b), the releasee shall, at the direction of his Supervision Officer, attend a public, private, or private nonprofit offender rehabilitation program that has been approved by CSOSA (or the U.S. Probation Office), in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if such an approved program is readily available within a 50-mile radius of the legal residence of the releasee. For the purposes of this condition, a ''court of the United States'' in 18 U.S.C. 3561(b) shall include the District of Columbia Superior Court. The Commission shall not be limited by this requirement from imposing any appropriate condition with respect to a repeat offender.

(h) A releasee who has committed an offense for which sex offender registration is required under D.C. Code 24–1121 *et seq.*, shall comply with the registration requirements of Chapter 11 of Title 24, D.C. Code, and with the sex offender registration laws of any state in which the releasee resides, works, or attends school.

(i) Any releasee who absconds from supervision has effectively prevented his term of supervised release from expiring. Therefore, the releasee remains bound by the conditions of his release, and violations committed at any time prior to execution of a warrant issued by the Commission, whether before or after the originally scheduled expiration date of the term of supervised release, may be charged as a basis for revocation. In such a case, the warrant may be supplemented at any time.

(j) Releasees are expected by the Commission to understand the conditions of supervision according to their plain meaning, and to seek the guidance of their Supervision Officers before engaging in any conduct that may constitute a violation thereof. Supervision Officers may issue instructions to releasees to refrain from particular conduct that would violate supervised release, or to take specific steps to avoid or correct a violation thereof, as well as such other directives as may be authorized by the conditions imposed by the Commission.

§ 2.205 Confidentiality of supervised release records.

(a) Consistent with the Privacy Act of 1974 (5 U.S.C. 552a(b)), the contents of supervised release records shall be confidential and shall not be disclosed outside the Commission and CSOSA (or the U.S. Probation Office) except as provided in paragraphs (b) and (c) of this section.

(b) Information pertaining to a releasee may be disclosed to the general public, without the consent of the releasee, as authorized by § 2.37.

(c) Information other than as described in § 2.37 may be disclosed without the consent of the releasee only pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(b)) and the implementing rules of the Commission or CSOSA, as applicable.

§ 2.206 Travel approval and transfers of supervision.

(a) A releasee's Supervision Officer may approve travel outside the district of supervision without approval of the Commission in the following situations:

(1) Trips not to exceed thirty days for family emergencies, vacations, and similar personal reasons;

(2) Trips, not to exceed thirty days, to investigate reasonably certain employment possibilities; and

(3) Recurring travel across a district boundary, not to exceed fifty miles outside the district, for purpose of employment, shopping, or recreation.

(b) Specific advance approval by the Commission is required for all foreign travel, employment requiring recurring travel more than fifty miles outside the district, and vacation travel outside the district of supervision exceeding thirty days. A request for such permission shall be in writing and must demonstrate a substantial need for such travel.

(c) A special condition imposed by the Commission prohibiting certain travel shall apply instead of any general rules relating to travel as set forth in paragraph (a) of this section.

(d) The district of supervision for a releasee under the supervision of CSOSA shall be the District of Columbia, except that for the purpose of travel permission under this section, the district of supervision shall include the D.C. metropolitan area as defined in the certificate of supervised release.

(e) A supervised releasee who is under the jurisdiction of the Commission, and who is released or transfers to a district outside the District of Columbia, shall be supervised by a U.S. Probation Officer pursuant to 18 U.S.C. 3655.

(f) A supervised releasee may be transferred to a new district of supervision with the permission of the supervision offices of both the transferring and receiving district, provided such transfer is not contrary to instructions from the Commission.

§ 2.207 Supervision reports to Commission.

An initial supervision report to confirm the satisfactory initial progress of the releasee shall be submitted to the Commission 90 days after the offender's release from prison, by the Supervision Officer responsible for the releasee's supervision. A regular supervision report shall be submitted to the Commission by the officer responsible for the supervision of the releasee after the completion of 12 months of continuous community supervision and annually thereafter. The Supervision Officer shall submit such additional reports and information concerning both the releasee, and the enforcement of the conditions of supervised release, as the Commission may direct. All reports shall be submitted according to the format established by the Commission.

§ 2.208 Termination of a term of supervised release.

(a) The Commission, in its discretion, may terminate a term of supervised release and discharge the releasee from further supervision at any time after the expiration of one year of supervised release, if the Commission is satisfied that such action is warranted by the conduct of the releasee and the interest of justice.

(b) Two years after release on supervision, and at least annually thereafter, the Commission shall review the status of each releasee to determine the need for continued supervision. In calculating such two-year period there shall not be included any period of release prior to the most recent release, nor any period served in confinement on any other sentence. A review shall also be conducted whenever termination of supervision is specially recommended by the releasee's Supervision Officer. If the term of supervised release imposed by the court is two years or less, termination of supervision shall be considered only if specially recommended by the releasee's Supervision Officer.

(c) In determining whether to grant early termination of supervision, the Commission shall calculate for the releasee a Salient Factor Score under § 2.20, and shall apply the following early termination guidelines, provided that case-specific factors do not indicate a need for continued supervision:

(1) For a releasee classified in the very good risk category and whose current offense did not involve violence, termination of supervision may be ordered after two continuous years of incident-free supervision in the community.

(2) For a releasee classified in the very good risk category and whose current offense involved violence other than high level violence, termination of supervision may be ordered after three continuous years of incident-free supervision in the community.

(3) For a releasee classified in the very good risk category and whose current offense involved high level violence (without death of victim resulting), termination of supervision may be ordered after four continuous years of incident-free supervision in the community.

(4) For a releasee classified in other than the very good risk category, whose current offense did not involve violence, and whose prior record includes not more than one episode of felony violence, termination of supervision may be ordered after three continuous years of incident-free supervision in the community.

(5) For a releasee classified in other than the very good risk category whose current offense involved violence other than high level violence, or whose current offense did not involve violence but his prior record includes two or more episodes of felony violence, termination of supervision may be ordered after four continuous years incident-free supervision in the community.

(6) For releasees in the following categories, release from supervision prior to five years may be ordered only upon a case-specific finding that, by reason of age, infirmity, or other compelling factors, the releasee is unlikely to be a threat to the public safety:

(i) A releasee in other than the very good risk category whose current offense involved high level violence;

(ii) A releasee whose current offense involved high level violence with death of victim resulting; and

(iii) A releasee who is a sex offender serving a term of supervised release that exceeds five years.

(7) The terms ''violence'' and ''high level violence'' are defined in § 2.80. The term ''incident-free supervision'' means that the releasee has had no reported violations, and has not been the subject of any arrest or law enforcement investigation that raises a reasonable doubt as to whether the releasee has been able to refrain from law violations while under supervision.

(d) Except in the case of a releasee covered by paragraph (c)(6) of this

section, a decision to terminate supervision below the guidelines may be made if it appears that the releasee is a better risk than indicated by the salient factor score (if classified in other than the very good risk category), or is a less serious risk to the public safety than indicated by a violent current offense or prior record. However, termination of supervision prior to the completion of two years of incident-free supervision will not be granted in any case unless case-specific factors clearly indicate that continued supervision would be counterproductive to the releasee's rehabilitation.

(e) A releasee with a pending criminal charge who is otherwise eligible for an early termination from supervision shall not be discharged from supervision until the disposition of such charge is known.

§ 2.209 Order of termination.

When the Commission orders the termination of a term of supervised release, it shall issue a certificate to the releasee granting the releasee a full discharge from his term of supervised release. The termination and discharge shall take effect only upon the actual delivery of the certificate of discharge to the releasee by his Supervision Officer, and may be rescinded for good cause at any time prior to such delivery.

§ 2.210 Extension of term.

(a) At any time during service of a term of supervised release, the Commission may move the Superior Court to extend the term of supervised release to the maximum term authorized by law, if less than the maximum authorized term was originally imposed. If the Superior Court grants the Commission's motion prior to the expiration of the term originally imposed, the extension ordered by the Court shall take effect upon its issuance.

(b) The Commission may move the Superior Court for an extension of a term of supervised release if, for any reason, it finds that the rehabilitation of the releasee, and/or the protection of the public safety, is likely to require a longer period of supervision than the Court originally contemplated. The Commission's grounds for making such a finding shall be stated in the motion filed with the Court.

(c) The provisions of this section shall not apply to the Commission's determination of an appropriate period of further supervised release following revocation of a term of supervised release.

§ 2.211 Summons to appear or warrant for retaking releasee.

(a) If a releasee is alleged to have violated the conditions of his release, and satisfactory evidence thereof is presented, a Commissioner may:

(1) Issue a summons requiring the releasee to appear for a preliminary interview or local revocation hearing; or

(2) Issue a warrant for the apprehension and return of the releasee to custody.

(b) A summons or warrant under paragraph (a) of this section may be issued or withdrawn only by a Commissioner.

(c) Any summons or warrant under this section shall be issued as soon as practicable after the alleged violation is reported to the Commission, except when delay is deemed necessary. Issuance of a summons or warrant may be withheld until the frequency or seriousness of the violations, in the opinion of a Commissioner, requires such issuance. In the case of any releasee who is charged with a criminal offense and who is awaiting disposition of such charge, issuance of a summons or warrant may be:

(1) Temporarily withheld;

(2) Issued by the Commission and held in abeyance;

(3) Issued by the Commission and a detainer lodged with the custodial authority; or

(4) Issued for the retaking of the releasee.

(d) A summons or warrant may be issued only within the maximum term or terms of the period of supervised release being served by the releasee, except as provided for an absconder from supervision in § 2.204(i). A summons or warrant shall be considered issued when signed and either:

(1) Placed in the mail; or

(2) Sent by electronic transmission to the appropriate law enforcement authority.

(e) The issuance of a warrant under this section operates to bar the expiration of the term of supervised release. Such warrant maintains the Commission's jurisdiction to retake the releasee either before or after the normal expiration date of his term, and for such time as may be reasonably necessary for the Commission to reach a final decision as to revocation of the term of supervised release.

(f) A summons or warrant issued pursuant to this section shall be accompanied by a warrant application stating the charges against the releasee, the applicable procedural rights under the Commission's regulations, and the possible actions which may be taken by the Commission. A summons shall specify the time and place the releasee shall appear. Failure to appear in response to a summons shall be grounds for issuance of a warrant.

§ 2.212 Execution of warrant and service of summons.

(a) Any officer of any Federal or District of Columbia correctional institution, any Federal Officer authorized to serve criminal process, or any officer or designated civilian employee of the Metropolitan Police Department of the District of Columbia, to whom a warrant is delivered, shall execute such warrant by taking the releasee and returning him to the custody of the Attorney General.

(b) Upon the arrest of the releasee, the officer executing the warrant shall deliver to him a copy of the warrant application.

(c) If execution of the warrant is delayed pending disposition of local charges, for further investigation, or for some other purpose, the releasee is to be continued under supervision by the Supervision Officer until the normal expiration of the sentence, or until the warrant is executed, whichever first occurs. Monthly supervision reports are to be submitted, and the releasee must continue to abide by all the conditions of release.

(d) If any other warrant for the arrest of the releasee has been executed or is outstanding at the time the Commission's warrant is executed, the arresting officer may, within 72 hours of executing the Commission's warrant, release the arrestee to such other warrant and lodge the Commission's warrant as a detainer, voiding the execution thereof, provided such action is consistent with the instructions of the Commission. In other cases, the arrestee may be released from an executed warrant whenever the Commission finds such action necessary to serve the ends of justice.

(e) A summons to appear at a preliminary interview or revocation hearing shall be served upon the releasee in person by delivering to the releasee a copy of the summons and the application therefore. Service shall be made by any Federal or District of Columbia officer authorized to serve criminal process and certification of such service shall be returned to the Commission.

(f) Official notification of the issuance of a Commission warrant shall authorize any law enforcement officer within the United States to hold the releasee in custody until the warrant can be executed in accordance with paragraph (a) of this section.

§ 2.213 Warrant placed as detainer and dispositional review.

(a) When a releasee is a prisoner in the custody of other law enforcement authorities, or is serving a new sentence of imprisonment imposed for a crime (or for a violation of some other form of community supervision) committed while on supervised release, a violation warrant may be lodged against him as a detainer.

(b) The Commission shall review the detainer upon the request of the prisoner pursuant to the procedure set forth in § 2.47(a)(2). Following such review, the Commission may:

(1) Withdraw the detainer and order reinstatement of the prisoner to supervision upon release from custody;

(2) Order a dispositional revocation hearing to be conducted at the institution in which the prisoner is confined; or

(3) Let the detainer stand until the new sentence is completed. Following the execution of the Commission's warrant, and the transfer of the prisoner to an appropriate federal facility, an institutional revocation hearing shall be conducted.

(c) Dispositional revocation hearings pursuant to this section shall be conducted in accordance with the provisions at § 2.216 governing institutional revocation hearings. A hearing conducted at a state or local facility may be conducted either by a hearing examiner or by any federal, state, or local official designated by a Commissioner. Following a revocation hearing conducted pursuant to this section, the Commission may take any action authorized by § 2.218 and 2.219.

(d) The date the violation term commences is the date the Commission's warrant is executed. A releasee's violation term (i.e., the term of imprisonment and/or further term of supervised release that the Commission may require the releasee to serve after revocation) shall start to run only upon the offender's release from the confinement portion of the intervening sentence.

(e) An offender whose supervised release is revoked shall be given credit for all time in confinement resulting from any new offense or violation that is considered by the Commission as a basis for revocation, but solely for the purpose of satisfying the time ranges in the reparole guidelines at § 2.21. The computation of the offender's sentence, and the forfeiture of time on supervised release, are not affected by such guideline credit.

§ 2.214 Revocation; Preliminary interview.

(a) Interviewing officer. A releasee who is retaken on a warrant issued by the Commission shall promptly be offered a preliminary interview by a Supervision Officer (or other official designated by the Commission). The purpose of the preliminary interview is to enable the Commission to determine if there is probable cause to believe that the releasee has violated his conditions of release as charged, and if so, whether a local or institutional revocation hearing should be conducted. Any Supervision Officer or U.S. Probation Officer in the district where the releasee is confined may conduct the preliminary interview, provided he is not the officer who recommended that the warrant be issued.

(b) Notice and opportunity to postpone interview. (1) At the beginning of the preliminary interview, the interviewing officer shall ascertain that the warrant application has been given to the releasee as required by § 2.212(b). The interviewing officer shall advise the releasee that he may go forward with the interview, or have the interview postponed in order to obtain an attorney and/or witnesses and evidence on his behalf. A postponement may be requested by signing the form provided by the interviewing officer, and by indicating on such form the reason for the requested postponement. If the releasee wishes to be represented by counsel, and counsel is not already available and present, the releasee may request a postponement to engage the services of counsel, to apply for counsel to be assigned by the D.C. Public Defender Service, or to apply for appointment of counsel under 28 U.S.C. 3006A in cases where the releasee has been arrested outside the District of Columbia.

(2) If a postponement is requested, the releasee may request the Commission to obtain the presence of adverse witnesses (*i.e.,* persons who have given information upon which revocation may be based). Such adverse witnesses may be requested to attend the postponed preliminary interview if the releasee meets the requirements at § 2.215(a) for a local revocation hearing. The releasee shall be given advance notice of the time and place of a postponed preliminary interview.

(c) Review of the charges. At the preliminary interview, the interviewing officer shall review the violation charges with the releasee and shall apprise the releasee of the evidence that has been presented to the Commission. The interviewing officer shall ascertain whether the releasee admits or denies each charge listed on the warrant application, as well as the releasee's explanation of the facts giving rise to each charge. The officer shall also receive the statements of any witnesses and documentary evidence on behalf of the releasee. At a postponed preliminary interview, the hearing officer shall also permit the cross-examination of any adverse witnesses in attendance. However, in such cases, the Commission will ordinarily have ordered a combined preliminary interview and local revocation hearing as provided in paragraph (f) of this section.

(d) Probable cause determination. At the conclusion of the preliminary interview, the interviewing officer shall inform the releasee of his recommended decision as to whether there is probable cause to believe that the releasee has violated the conditions of release, and shall submit to the Commission a digest of the interview together with a recommended decision.

(1) If the interviewing officer's recommended decision is that there is no probable cause to believe that the releasee has violated the conditions of his release, a Commissioner shall review the recommended decision and notify the releasee of his final decision concerning probable cause as expeditiously as possible. A finding of no probable cause shall be implemented without delay.

(2) If the interviewing officer's recommended decision is that there is probable cause to believe that the releasee has violated the conditions of his release, the Commissioner shall notify the releasee of the final decision concerning probable cause within 21 days of the date of the preliminary interview. The Commission shall either schedule a revocation hearing, or offer the releasee the option of an expedited revocation without a hearing, pursuant to the procedure set forth in § 2.66.

(3) If the Commission finds probable cause to believe that the releasee has violated the conditions of his release, reinstatement to supervision or release pending further proceedings may be ordered in the Commission's discretion if it determines that:

(i) Continuation of revocation proceedings is not warranted despite the violations found; or

(ii) Incarceration pending further revocation proceedings is not warranted by the alleged frequency or seriousness of such violation or violations, and the releasee is neither likely to fail to appear for further proceedings, nor constitutes a danger to himself or others.

(e) Conviction as probable cause. Conviction of any Federal, District of Columbia, State, or local crime

committed subsequent to the commencement of the term of supervised release shall constitute probable cause for the purposes of this section, and no preliminary interview shall be conducted unless ordered by a Commissioner to consider additional violation charges that may be determinative of the Commission's decision regarding revocation.

(f) Local revocation hearing. A postponed preliminary interview may be conducted as a local revocation hearing if the releasee has been advised that the postponed preliminary interview will constitute his final revocation hearing. It shall be the Commission's policy to conduct a combined preliminary interview and local revocation hearing whenever adverse witnesses are required to appear and give testimony with respect to contested charges.

(g) Late received charges. If, after probable cause has been found to proceed with a revocation hearing, the Commission is notified of an additional charge, the Commission may:

(1) Remand the case for a supplemental preliminary interview if the new charge may require a local revocation hearing;

(2) Notify the releasee that the additional charge will be considered at the revocation hearing without conducting a supplemental interview; or

(3) Determine that the new charge will not be considered at the revocation hearing.

§ 2.215 Place of revocation hearing.

(a) If the releasee requests a local revocation hearing, he shall be given a revocation hearing reasonably near the place of the alleged violation(s) or arrest, with the opportunity to contest the charges against him, if the following conditions are met:

(1) The releasee has not been convicted of a crime committed while under supervision; and

(2) The releasee denies all charges against him.

(b) The releasee shall also be given a local revocation hearing if he admits (or has been convicted of) one or more charged violations, but denies at least one unadjudicated charge that may be determinative of the Commission's decision regarding revocation or the length of any new term of imprisonment, and the releasee requests the presence of one or more adverse witnesses regarding that contested charge. If the appearance of such witnesses at the hearing is precluded by the Commission for good cause, a local revocation hearing shall not be ordered.

(c) If there are two or more contested charges, a local revocation hearing may be conducted near the place of the violation chiefly relied upon by the Commission as a basis for the issuance of the warrant or summons.

(d) A releasee who voluntarily waives his right to a local revocation hearing, or who admits one or more charged violations without contesting any unadjudicated charge that may be determinative of the Commission's decision regarding revocation and/or imposition of a new term of imprisonment, or who is retaken following completion of a sentence of imprisonment for a new crime, shall be given an institutional revocation hearing upon his return or recommitment to an institution. An institutional revocation hearing may also be conducted in the District of Columbia jail or prison facility in which the releasee is being held. (However, a Commissioner may, on his own motion, designate any such case for a local revocation hearing instead.) The difference in procedures between a ''local revocation hearing'' and an ''institutional revocation hearing'' is set forth in § 2.216(b).

(e) A releasee who is retaken on a warrant issued by the Commission shall remain in custody until final action relative to the revocation of his term of supervised release, unless otherwise ordered by the Commission under § 2.214(d)(3). A releasee who has been given a revocation hearing pursuant to the issuance of a summons shall remain on supervision pending the decision of the Commission, unless the Commission has ordered otherwise.

(f) A local revocation hearing shall be scheduled to be held within sixty days of the probable cause determination. An institutional revocation hearing shall be scheduled to be held within ninety days of the date of the execution of the violator warrant upon which the releasee was retaken. However, if a releasee requests and receives any postponement, or consents to a postponement, or by his actions otherwise precludes the prompt conduct of such proceedings, the above-stated time limits may be extended.

(g) A local revocation hearing may be conducted by a hearing examiner or by any federal, state, or local official who is designated by a Commissioner to be the presiding hearing officer. An institutional revocation hearing may be conducted by an examiner of the Commission.

§ 2.216 Revocation hearing procedure.

(a) The purpose of the revocation hearing shall be to determine whether the releasee has violated the conditions of his supervised release, and, if so, whether his release should be revoked or reinstated.

(b) At a local revocation hearing, the alleged violator may present voluntary witnesses and documentary evidence in his behalf. The alleged violator may also request the Commission to compel the attendance of any adverse witnesses for cross-examination, and any other relevant witnesses who have not volunteered to attend. At an institutional revocation hearing, the alleged violator may present voluntary witnesses and documentary evidence in his behalf, but may not request the Commission to secure the attendance of any adverse or favorable witness. At any hearing, the presiding hearing officer may limit or exclude any irrelevant or repetitious statement or documentary evidence, and may prohibit the releasee from contesting matters already adjudicated against him in other forums.

(c) At a local revocation hearing, the Commission shall, on the request of the alleged violator, require the attendance of any adverse witnesses who have given statements upon which revocation may be based, subject to a finding of good cause as described in paragraph (d) of this section. The adverse witnesses who are present shall be made available for questioning and cross-examination in the presence of the alleged violator. The Commission may also require the attendance of adverse witnesses on its own motion.

(d) The Commission may excuse any requested adverse witness from appearing at the hearing (or from appearing in the presence of the alleged violator) if it finds good cause for so doing. A finding of good cause for the non-appearance of a requested adverse witness may be based, for example, on a significant possibility of harm to the witness, or the witness not being reasonably available when the Commission has documentary evidence that is an adequate substitute for live testimony.

(e) All evidence upon which the finding of violation may be based shall be disclosed to the alleged violator at or before the revocation hearing. The presiding hearing officer may disclose documentary evidence by permitting the alleged violator to examine the document during the hearing, or where appropriate, by reading or summarizing the document in the presence of the alleged violator.

(f) An alleged violator may be represented by an attorney at either a local or an institutional revocation hearing. In lieu of an attorney, an alleged violator may be represented at any revocation hearing by a person of

his choice. However, the role of such non-attorney representative shall be limited to offering a statement on the alleged violator's behalf. Only licensed attorneys shall be permitted to question witnesses, make objections, and otherwise provide legal representation for supervised releasees, except in the case of law students appearing before the Commission as part of a court-approved clinical practice program. Such law students must be under the personal direction of a lawyer or law professor who is physically present at the hearing, and the examiner shall ascertain that the releasee consents to the procedure.

§ 2.217 Issuance of subpoena for appearance of witnesses or production of documents.

(a)(1) If any adverse witness (*i.e.,* a person who has given information upon which revocation may be based) refuses, upon request by the Commission, to appear at a preliminary interview or local revocation hearing, a Commissioner may issue a subpoena for the appearance of such witness.

(2) In addition, a Commissioner may, upon a showing by the releasee that a witness whose testimony is necessary to the proper disposition of his case will not appear voluntarily at a local revocation hearing or provide an adequate written statement of his testimony, issue a subpoena for the appearance of such witness at the revocation hearing.

(3) A subpoena may also be issued at the discretion of a Commissioner if an adverse witness is judged unlikely to appear as requested, or if the subpoena is deemed necessary for the orderly processing of the case.

(b) A subpoena may require the production of documents as well as, or in lieu of, a personal appearance. The subpoena shall specify the time and the place at which the person named therein is commanded to appear, and shall specify any documents required to be produced.

(c) A subpoena may be served by any Federal or District of Columbia officer authorized to serve criminal process. The subpoena may be served at any place within the judicial district in which the place specified in the subpoena is located, or any place where the witness may be found. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such a person.

(d) If a person refuses to obey such subpoena, the Commission may petition a court of the United States for the judicial district in which the revocation proceeding is being conducted, or in which such person may be found, to require such person to appear, testify, or produce evidence. If the court issues an order requiring such person to appear before the Commission, failure to obey such an order is punishable as contempt, as provided in 18 U.S.C. 4214(a)(2).

§ 2.218 Revocation decisions.

(a) Whenever a releasee is summoned or retaken by the Commission, and the Commission finds by a preponderance of the evidence that the releasee has violated one or more conditions of his supervised release, the Commission may take any of the following actions:

(1) Restore the releasee to supervision, and where appropriate:

(i) Reprimand the releasee;

(ii) Modify the releasee's conditions of release;

(iii) Refer the releasee to a residential community corrections center for all or part of the remainder of his term of supervised release; or

(2) Revoke the term of supervised release.

(b) If supervised release is revoked, the Commission shall determine whether the releasee shall be returned to prison to serve a new term of imprisonment, and the length of that term, or whether a new term of imprisonment shall be imposed but limited to time served. If the Commission imposes a new term of imprisonment that is less than the applicable maximum term authorized by law, the Commission shall also determine whether to impose a further term of supervised release to commence after the new term of imprisonment has been served. If the new term of imprisonment is limited to time served, any further term of supervised release shall commence upon the issuance of the Commission's order. Notwithstanding the above, if a releasee is serving another term of imprisonment of 30 days or more for any federal, state, or local crime, any further term of supervised release imposed by the Commission shall not commence until that term of imprisonment has been served.

(c) A releasee whose term of supervised release is revoked by the Commission shall receive no credit for time spent on supervised release, including any time spent in confinement on other sentences (or in a halfway house as a condition of supervised release) prior to the execution of the Commission's warrant.

(d) The Commission's decision regarding the imposition of a term of imprisonment following revocation of supervised release, and any further term of supervised release, shall be made pursuant to the limitations set forth in § 2.219. Within those limitations, the appropriate length of any term of imprisonment shall be determined by reference to the guidelines at § 2.21.

(e) Whenever the Commission imposes a term of imprisonment upon revocation of supervised release that is less than the authorized maximum term, it shall be the Commission's general policy to impose a further term of supervised release that is the maximum permitted by § 2.219. If the Commission imposes a new term of imprisonment that is equal to the maximum term authorized by law (or in the case of a subsequent revocation, that uses up the remainder of the maximum term of imprisonment authorized by law), the Commission may not impose a further term of supervised release.

(f) Where deemed appropriate, the Commission may depart from the guidelines at § 2.21 (with respect to the imposition of a new term of imprisonment) in order to permit the imposition of a further term of supervised release.

(g) Decisions under this section shall be made upon the concurrence of two Commissioner votes, except that a decision to override an examiner panel recommendation shall require the concurrence of three Commissioner votes. The Commission's decision shall ordinarily be issued within 21 days of the hearing, excluding weekends and holidays.

§ 2.219 Maximum terms of imprisonment and supervised release.

(a) Imprisonment; first revocation. When a term of supervised release is revoked, the maximum authorized term of imprisonment that the Commission may require the offender to serve, in accordance with D.C. Code § 24–203.1(b)(7), shall be:

(1) Not more than 5 years, if the maximum term of imprisonment authorized for the offense is life, or if the offense is statutorily designated as a Class A felony;

(2) Not more then 3 years, if the maximum term of imprisonment authorized for the offense is 25 years or more, but less than life, and the offense is not statutorily designated as a Class A felony;

(3) Not more than 2 years, if the maximum term of imprisonment authorized for the offense is 5 years or more, but less than 25 years; or

(4) Not more than 1 year, if the maximum term of imprisonment authorized for the offense is less than 5 years.

(b) Further term of supervised release; first revocation. (1) When a term of supervised release is revoked, and the Commission imposes less than the maximum term of imprisonment authorized by paragraph (a) of this section, the Commission may also impose a further term of supervised release after imprisonment.

(2) The maximum authorized length of such further term of supervised release shall be the original maximum term of supervised release that the sentencing court was authorized to impose, less the term of imprisonment imposed by the Commission upon revocation of supervised release. The original maximum authorized term of supervised release is as follows:

(i) Five years if the maximum term of imprisonment authorized for the offense of conviction is 25 years or more;

(ii) Three years if the maximum term of imprisonment authorized for the offense of conviction is more than one year but less than 25 years; and

(iii) Life if the person is required to register for life, and 10 years in any other case, if the offender has been sentenced for an offense for which registration is required by the Sex Offender Registration Act of 1999.

(3) For example, in the case of a five-year term of supervised release carrying a maximum period of imprisonment of three years, the Commission may impose a three-year term of imprisonment with no supervised release to follow, or any term of imprisonment of less than three years with a further term of supervised release of five years minus the term of imprisonment actually imposed (such as a one-year term of imprisonment followed by a four-year term of supervised release, or a two-year term of imprisonment followed by a three-year term of supervised release).

(c) Reference table. The following table may be used in most cases as a reference to determine both the maximum authorized term of imprisonment and the original maximum authorized term of supervised release:

D.C. Code reference (original conviction)	Offense description	Original authorized term of supervised release	Maximum authorized new term of imprisonment
	Title 22		
22–103, 23–1331	Attempted crime of violence	3 years	2 years.
22–104(a)	1 prior	various	various.
	2+ priors	various	various.
22–104a(a)(1)	Three strikes for felonies*	5 years	5 years.
22–104a(a)(2)	Three strikes for violent felonies*	5 years	5 years.
22–105	Aiding & abetting	various	various.
22–105a(a)	Conspiracy	3 years	2 years.
	If underlying offense < 5	3 years	1 year.
22–106	Accessory after the fact	various	various.
	Capital crimes	3 years	2 years.
22–107	Offenses not covered by DC Code	3 years	2 years.
22–401	Arson	3 years	2 years
22–402	Arson-own property	3 years	2 years.
22–403	DP $200+	3 years	2 years.
22–501; see 24–203.1(e)	Assault with intent to kill/rob/poison/ 1°, 2°, child sex abuse.	3 years or not > period of SOR.	2 years.
22–501, 3202	Assault with intent to kill etc. while armed	5 years	5 years.
22–502	Assault with a Dangerous Weapon	3 years	2 years.
22–503	Assault with intent to commit an offense other than those in § 22 501.	3 years	2 years.
22–504	Stalking—2nd offense	3 years	1 year.
	3rd+ offense	3 years	1 year.
22–504.1(a), 3202	Aggravated assault while armed*	5 years	5 years.
22–504.1(b)	Aggravated assault	3 years	2 years.
22–504.1(c)	Attempted aggravated assault	3 years	2 years.
22–505(a), 24–203.1(f)	Assault on a police officer	3 years	2 years.
22–505(b)	Assault on a police officer while armed	3 years	2 years.
22–506	Mayhem/malicious disfigurement	3 years	2 years.
22–601	Bigamy	3 years	2 years.
22–704(a)	Corrupt influence	3 years	2 years.
22–712(c)	Bribery—Public Servant	3 years	2 years.
22–713(c)	Bribery—Witness	3 years	2 years.
22–722(b)	Obstructing Justice*	5 years	5 years.
22–723(b)	Evidence Tampering	3 years	1 year.
22–752(b)(2)	Counterfeiting	3 years	1 year.
22–752(b)(3)	Counterfeiting	3 years	2 years.
22–901(a), (c)(1)	1° Cruelty to Children	3 years	2 years.
22–901(b), (c)(2)	2° Cruelty to Children	3 years	2 years.
22–1122(d)	Inciting riot w/injury	3 years	2 years.
22–1303	False impersonation	3 years	2 years.
22–1304	Impersonating a public official	3 years	1 year.
22–1410	Bad Checks $100+	3 years	1 year.
22–1501	Illegal lottery	3 years	1 year.
22–1504	Gaming	3 years	2 years.
22–1510, 1511	Bucketing—2nd+ offense	3 years	2 years.
22–1513(a)	Corrupt influence—Athletics	3 years	2 years.
22–1801(a)	1° Burglary	5 years	3 years.
22–1801(b)	2° Burglary	3 years	2 years.
22–1801, 3202	Burglary while armed*	5 years	5 years.

D.C. Code reference (original conviction)	Offense description	Original authorized term of supervised release	Maximum authorized new term of imprisonment
22–1901	Incest	3 years or not > period of SOR.	2 years.
22–2001(e)	Obscenity 2nd+ offense	3 years or not > period of SOR.	1 year.
22–2012, 2013	Sex performance w/minors—	3 years or not > period of SOR.	2 years.
	1st offense		
	2nd offense		
22–2101	Kidnapping*	5 years	5 years.
22–2101, 3202	Kidnapping while armed*	5 years	5 years.
22–2307	Felony Threats	3 years	2 years.
22–2401, 2404	Murder I*	5 years	5 years.
22–2401, 2402, 3202	Murder I while armed*	5 years	5 years.
22–2402, 2402	Murder I—obstruction of railway*	5 years	5 years.
22–2403, 2402	Murder II*	5 years	5 years.
22–2403, 2402, 3202	Murder II while armed*	5 years	5 years.
22–2405	Manslaughter	5 years	3 years.
22–2405, 3202	Manslaughter while armed*	5 years	5 years.
22–2406	Murder of Police Officer	None (LWOR).	
22–2511(b)	Perjury	3 years	2 years.
22–2512	Subornation of Perjury	3 years	2 years.
22–2513(b)	False Swearing	3 years	1 year.
22–2601(b)	Escape	3 years	2 years.
22–2603	Introducing contraband into prison	3 years	2 years.
22–2704	Child Prostitution: Abducting	3 years or not > period of SOR.	2 years.
	Harboring		
22–2705	Prostitution: Inducing	3 years or not > period of SOR (if child victim).	2 years.
22–2706	Compelling.		
22–2707	Arranging.		
22–2709	Detaining.		
22–2710	Procuring.		
22–2711	Procuring.		
22–2712	Operating.		
22–2708	Prostitution, causing spouse to	3 years	2 years.
22–2901	Robbery	3 years	2 years.
22–2901, 3202	Armed Robbery*	5 years	5 years.
22–2902	Attempted Robbery	3 years	1 year.
22–2903(a)	Carjacking	3 years	2 years.
22–2903(b)	Armed Carjacking*	5 years	5 years.
22–3103	Grave Robbing	3 years	1 year.
22–3105	Destruction of property by explosives	3 years	2 years.
22–3118	Malicious water pollution	3 years	1 year.
22–3119	Obstructing railways	3 years	2 years.
22–3202	Committing or attempting to commit violent crime while armed.	5 years	5 years.
22–3202.1	Gun-free zone	various	various.
22–3203, 24–203.1(f)	Unlawful possession of a pistol by a felon, etc. (UPP) 2nd+offense.	3 years	2 years.
22–3204(a)(1)–(2)	Carrying a pistol without a license	3 years	2 years.
	1st offense	3 years	2 years.
	2nd+offense		
22–3204(b)	Possession of a firearm while committing a crime of violence or dangerous crime (PFDCVDC).	3 years	2 years.
22–3214	Possession of a prohibited weapon (PPW)	3 years	2 years.
	2nd+offense		
22–3215a	Molotov cocktails—1st offense	3 years	2 years.
	2nd offense	3 years	2 years.
	3rd* offense	5 years	5 years.
22–3427	B&E vending machines	3 years	1 year.
22–3601, 24–203.1(f)	Possessing Implements of Crime 2nd+ offense	3 years	2 years.
22–3812	1° Theft	3 years	2 years.
22–3814.1 (d)(2)	Deceptive Labeling	3 years	2 years.
22–3815(d)(1)	Unlawful use of a vehicle—private	3 years	2 years.
22–3815(d)(2)	Unlawful use of a vehicle—rental	3 years	1 year.
22–3821(a), 3822(a)	1° Fraud $250+	3 years	2 years.
22–3821(b), 3822(b)	2° Fraud $250+	3 years	1 year.
22–3823	Credit Card Fraud	3 years	2 years.
	$250+		
22–3825.2, 3825.4(a)	1° Insurance Fraud	3 years	2 years.
22–3825.3, 3825.4(b)	2° Insurance Fraud.		
	1st offense	3 years	2 years.
	2nd offense	3 years	2 years.
22–3831(d)	Trafficking in stolen property	3 years	2 years.

D.C. Code reference (original conviction)	Offense description	Original authorized term of supervised release	Maximum authorized new term of imprisonment
22–3832	Receiving stolen property $250+	3 years	2 years.
22–3841, 3842	Forgery: Legal tender	3 years	2 years.
	Token	3 years	2 years.
	Other	3 years	1 year.
22–3851(b)	Extortion	3 years	2 years.
22–3851(b), 3852(b), 3202	Armed extortion or blackmail with threats of violence*	5 years	5 years.
22–3852(b)	Blackmail	3 years	2 years.
22–3901	Senior Citizen Victim	various	various.
22–3902	Citizen Patrol Victim	various	various.
22–4003	Bias-related crime	various	various.
22–4102, 24–203.1(e)	1° Sex Abuse*	5 years or not > period of SOR.	5 years.
22–4102, 3202	1° Sex Abuse while armed*	5 years or not > period of SOR.	5 years.
22–4103, 24–203.1(e)	2° Sex Abuse	3 years or not > period of SOR.	2 years.
22–4103, 3202	2° Sex Abuse while armed*	5 years or not > period of SOR.	5 years.
22–4104	3° Sex Abuse	3 years or not > period of SOR.	2 years.
2–4105	4° Sex Abuse	3 years or not > period of SOR.	2 years.
2–4108, 24–203.1(e)	1° Child Sex Abuse*	5 years or not > period of SOR.	5 years.
22–4108, 3202	1° Child Sex Abuse while armed*	5 years or not > period of SOR.	5 years.
22–4109, 24–203.1(e)	2° Child Sex Abuse	3 years or not > period of SOR.	2 years.
22–4109, 3202	2° Child Sex Abuse while armed*	5 years or not > period of SOR.	5 years.
22–4110, 24–203.1(e)	Enticing a child	3 years or not > period of SOR.	2 years.
2–4113	1° Sex Abuse Ward	3 years or not > period of SOR.	2 years.
2–4114	2° Sex Abuse Ward	3 years or not > period of SOR.	2 years.
2–4115	1° Sex Abuse Patient	3 years or not > period of SOR.	2 years.
2–4116	2° Sex Abuse Patient	3 years or not > period of SOR.	2 years.
2–4118	Attempt 1° Sex and 1° Child Sex Abuse	3 years or not > period of SOR.	2 years various.
	Attempt Other	various or not > period of SOR.	
22–4120	Aggravated 1° Sex and Child Sex Abuse	5 years or not > period of SOR.	5 years various.
	Aggravated other	various or not > period of SOR.	
	Title 23		
23–1327(a)(1)	Bail Reform Act	3 years	2 years.
23–1328(a)(1)	Committing a felony on release	3 years	2 years.
	Title 24		
24–1113	Sex offender failure to register—2nd offense	3 years	2 years.
	Title 33		
33–541(a)–(b)	Manufacture, distribute, or PWID I, II narcotics (heroin, cocaine, PCP).	5 years	3 years.
	I, II, III non-narcotic	3 years	2 years.
	IV	3 years	1 year.
33–541 et seq., 22–3202	Distribution or PWID drugs while armed*	5 years	5 years.
33–543	Drugs—Fraud	3 years	1 year.
33–543a	Drugs—Maintaining house	3 years	3 years.
33–546	Drugs—Distribution to minors	various	various.
33–547	Drugs—Enlisting minors—1st offense	3 years	2 years.
	2nd + offense	3 years	2 years.
33–547.1(b)	Drug-free zones	various	various.
33–548	Drugs—2nd + offense	various	various.
33–549	Drugs—Attempt or Conspiracy	various	various.

D.C. Code reference (original conviction)	Offense description	Original authorized term of supervised release	Maximum authorized new term of imprisonment
33–603(b)	Possession of drug paraphernalia w/intent to use it—2nd + offense.	3 years	1 year.
33–603(c)	Delivering drug paraphernalia to a minor	3 years	2 years.
	Title 40		
40–713	Negligent homicide (vehicular)	3 years	2 years.
40–718	Smoke screens	3 years	2 years.

NOTES: (1) An asterisk means that the offense is statutorily designated as a Class A felony.
(2) If the defendant is a sex offender subject to registration, the Original Authorized Term of Supervised Release is the maximum period of registration to which the sex offender is subject (ten years or life). Sex offender registration is required for crimes such as first degree sexual abuse, and such crimes are listed on this Table with the notation ''> periods of SOR'' as the Original Authorized Term of Supervised Release. Sex offender registration, however, may also be required for numerous crimes (such as burglary or murder) if a sexual act or contact was involved or was the offender's purpose. In such cases, the offender's status will be determined by the presence of an order from the sentencing court pursuant to D.C. Code 24–1123 certifying that the defendant is a sex offender.
(3) If the defendant committed his offense on or after August 5, 2000, but before August 11, 2000, the maximum authorized terms of imprisonment and further supervised release shall be determined by reference to 18 U.S.C. 3583.

(d) Imprisonment; successive revocations. (1) When the Commission revokes a term of supervised release that was imposed by the Commission upon a previous revocation of supervised release, the maximum term of imprisonment is the maximum term authorized by paragraph (a) of this section, less the term or terms of imprisonment that were previously imposed by the Commission. In calculating such previously-imposed term or terms of imprisonment, the Commission shall use the term as imposed without deducting any good time credits that may have been earned by the offender prior to his release from prison. In no case shall the total of successive terms of imprisonment imposed by the Commission exceed the maximum term of imprisonment that the Commission was authorized to impose in the first revocation order.

(2) For example, in the case of a five-year term of supervised release carrying a maximum term of imprisonment of three years, the Commission at the first revocation may have imposed a one-year term of imprisonment and a further four-year term of supervised release. At the second revocation, the maximum authorized term of imprisonment will be two years, which is the original maximum authorized term of imprisonment of three years minus the one-year term of imprisonment that was imposed at the first revocation.

(e) Further term of supervised release; successive revocations. (1) When the Commission revokes a term of supervised release that was imposed by the Commission following a previous revocation of supervised release, the Commission may also impose a further term of supervised release. The maximum authorized length of such a term of supervised release shall be the original maximum authorized term of supervised release as set forth in paragraph (b) of this section, less the total of the terms of imprisonment imposed by the Commission on the same sentence (including the term of imprisonment imposed in the current revocation).

(2) For example, in the case of a five-year term of supervised release carrying a maximum period of imprisonment of three years, the Commission at the first revocation may have imposed a one-year term of imprisonment and a four-year further term of supervised release. If, at a second revocation, the Commission imposes another one-year term of imprisonment, the maximum authorized further term of supervised release will be three years (the original five-year period minus the total of two years imprisonment).

(f) Effect of sentencing court imposing less than the maximum authorized term of supervised release. If the Commission has revoked supervised release, the maximum authorized period of further supervised release is determined by reference to the original maximum authorized term as a set forth in paragraph (b) of this section, even if the sentencing court did not originally impose the maximum authorized term.

* * * * *

Dated: November 15, 2000.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 00–29964 Filed 11–22–00; 8:45 am]

BILLING CODE 4410–31–U

DEPARTMENT OF INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

[CO–032–FOR]

Colorado Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving a proposed amendment to the Colorado regulatory program (hereinafter, the ''Colorado program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Colorado proposed revisions to and additions of rules about definitions; permit application requirements; comment period for revisions; requirements for permit approval or denial; and performance standards for sedimentation ponds, discharge structures, impoundments, stream buffer zones, coal exploration, and coal processing plants and support facilities not located at or near the mine site or not within the permit area for the mine. Colorado revised its program to be consistent with the corresponding Federal regulations and clarify ambiguities.

EFFECTIVE DATE: November 24, 2000.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Telephone: (303) 844–1400, extension 1424. Internet: JFULTON@OSMRE.GOV.

SUPPLEMENTARY INFORMATION:

I. Background on the Colorado Program

On December 15, 1980, the Secretary of the Interior conditionally approved the Colorado program. You can find background information on the Colorado program, including the Secretary's findings, the disposition of comments, and conditions of approval in the December 15, 1980, **Federal Register** (45 FR 82173). You can also find later actions concerning Colorado's program and program amendments at 30 CFR 906.15, 906.16, and 906.30.

II. Submission of the Proposed Amendment

By letter dated May 12, 2000, Colorado sent to us an amendment to its program (administrative record No. CO–691) under SMCRA (30 U.S.C. 1201 *et seq.*). Colorado sent the amendment in response to May 7, 1986, and June 19, 1997. letters (administrative record Nos. CO–282 and CO–686) that we sent to Colorado in accordance with 30 CFR 732.17(c); required program amendments codified at 30 CFR 906.16(d) and (e); and to include changes made at its own initiative.

We announced receipt of the proposed amendment in the June 7, 2000, **Federal Register** (65 FR 36098, administrative record No. C–691–2). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on August 8, 2000.

III. Director's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below.

1. Rules 1.04(71), (81a), (86a) and (137a), Proposed Definitions Containing Language That Is the Same as or Similar to the Corresponding Federal Definitions at 30 CFR 701.5

Rule 1.04(71) (30 CFR 701.5), concerning the definition of ''Land use,''

Rule 1.04(81a) (30 CFR 701.5), concerning the definition of ''Other treatment facilities'' (replacing the deleted definition of ''Sediment treatment facilities'' at Rule 1.04(115a)),

Rule 1.04(86a) (30 CFR 701.5), concerning the definition of ''Permanent impoundment,'' and

Rule 1.04 (137a) (30 CFR 701.5), concerning the definition of ''Temporary impoundment.''

Because the proposed definitions at Rules 1.04(71), (81a), (86a) and (137a) contain language that is the same as or similar to the corresponding Federal definitions, the Director finds that they are as effective as the corresponding Federal regulations at 30 CFR 701.5. The Director approves the proposed definitions of ''Land use,'' ''Other treatment facilities,'' ''Permanent impoundment,'' and ''Temporary impoundment'' at Rules 1.04(71), (81a), (86a) and (137a).

2. Rule 1.04(115), Definition of ''Sedimentation pond''

Colorado proposed at Rule 1.04(115) the definition of ''Sedimentation pond'' that, with two exceptions, is the same as the Federal definition of ''sedimentation pond'' at 30 CFR 701.5.

The first exception is that Colorado's proposed definition of ''Sedimentation pond'' clarifies that the State Engineer's requirements are not applicable to those structures designed solely to control sediment or which do not store water. There is no counterpart in the Federal program to requirements of the State Engineer. By this clarification, Colorado has not diminished the requirements of the Colorado program that do have counterparts in the Federal program. Therefore, the clarification is consistent with the Federal definition of ''sedimentation pond'' at 30 CFR 701.5.

The second exception is that Colorado's proposed definition of ''Sedimentation pond'' distinguishes between impoundments used as a ''primary sediment control structure'' to remove solids from water and ''secondary sedimentation control measures,'' such as ditches, riprap, check dams, mulches, and other measures used to reduce overland flow velocity, reduce runoff volume or trap sediment. Secondary sedimentation control structures may contribute to a sediment control program but are not considered a sedimentation pond. The Federal regulations at 30 CFR 816.45 provide for the use of sediment control measures such as straw dikes, riprap, check dams, mulches, vegetative sediment filters, dugout ponds, and other measures that reduce flow velocity, reduce runoff volume, or trap sediment. Colorado's clarification that such measures are not sedimentation ponds is consistent with the provision in the Federal regulations for use of such sediment control measures. In addition, Colorado's existing Rule 4.05.5 has the same requirements for sediment control measures as do the Federal regulations at 30 CFR 816.45.

The Director finds, based on the discussion above, that Colorado's proposed definition of ''Sedimentation pond'' at Rule 1.04(115) is as effective as the Federal definition of ''sedimentation pond'' at 30 CFR 701.5 and approves it.

3. Rules 2.05.3(4); (4)(a)(iii), (iv), (v), (vi) and (vii); and 4(b), Reclamation Plan: Sedimentation Ponds and Other Treatment Facilities, Impoundments, Banks, Dams, and Embankments

Colorado proposed at Rule 2.05.3(4) and (4)(a) to require (in a permit application) a general plan and detailed design plan for each proposed sedimentation pond, impoundment, other treatment facility and diversion. This requirement is similar to and as effective as the requirement in the Federal regulations at 30 CFR 780.25(a) and 784.16(a) (see the discussion of the use of the terms ''sedimentation ponds and the treatment facilities'' in the Colorado program in place of the term ''siltation structure used in the Federal programs at finding No. 7).

Colorado proposed editorial revisions at Rule 2.05.3(4)(a)(iii) concerning application requirements for impoundments that must meet the applicable requirements of the State Engineer. Specifically, Colorado proposed to refer to the defined term ''impoundment'' (rather than ''reservoir'') and to correct a typographical error by requiring any impoundment with a capacity of 100 (rather than1000) acre feet to meet the applicable requirements of the State Engineer. OSM has no counterpart Federal regulations governing impoundments which require State Engineer approval; however, the revisions proposed to Rule 2.05.3(4)(a)(iii) do not conflict and are consistent with and as effective as the Federal regulations concerning impoundments at 30 CFR 780.25(c) and 784.16(c).

Colorado required at proposed Rule 2.05.3(4)(a)(iv) that where a sedimentation pond or impoundment meets or exceeds the criteria at 30 CFR 77.216(a), the permittee must comply with the applicable requirements of the Mine Safety and health Administration (MSHA), 30 CFR 77.216–1 and –2. Colorado's requirement proposed at Rule 2.05.3(4)(a)(iv) is the same as and as effective as the requirement in the Federal regulations at 30 CFR 780.25(c)(2) and 784.16(c)(2) concerning structures that meet the size or other requirements of 30 CFR 77.216–1 and 77.216–2.

Coloradao proposed at Rule 2.05.3(4)(a)(v) that any plans required to be submitted to, and approved by, the Office of the State Engineer or MSHA for impoundments shall also be submitted to Colorado as part of the permit application. Colorado's requirement concerning impoundments proposed at Rule 2.05.3(4)(a)(v) is the same as the requirement in Federal regulations at 30 CFR 780.25(a)(2) and 784.16(a)(2), with the exception that Colorado also included a reference to plans required to be approved by the State Engineer. This exception has no counterpart in the Federal regulations (as discussed above), but is consistent with the Federal regulations. Therefore, Rule 2.05.3(4)(a)(v) is as effective as the Federal regulations at 30 CFR 780.25(a)(2) and (c)(2) and 784.16(a)(2) and (c)(2).

Colorado proposes to add new Rule 2.05.3(4)(a)(vi) requiring that all impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS), Technical Release No. 60 (TR–60, 210–VI–TR60, October 1985), ''Earth Dams and Reservoirs,'' comply with the requirements for structures that meet or exceed the size or other criteria of MSHA at 30 CFR 77.216(a), and to state that TR–60 and 30 CFR 77.216(a) are incorporated by reference. Colorado's requirement in proposed Rule 2.05.3(4)(a)(vi) is the same as and as effective as the requirement in the Federal regulations at 30 CFR 780.25(a)(2) and 784.16(a)(2) concerning impoundment meeting the Class B or C criteria.

Colorado proposed to add new Rule 2.05.3(4)(a)(vii) requiring that (1) each plan for an impoundment which meets the Class B or C criteria in TR–60 or meets the size or other criteria of 30 CFR 77.216(a) shall include a stability analysis of the structure, (2) the stability analysis shall include, but shall not be limited to, strength parameters, pore pressure, and long term seepage conditions, and (3) the plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods. Colorado's proposed Rule 2.05.3(4)(a)(vii) is consistent with and as effective as the Federal regulations at 30 CFR 780.25(f) and 784.16(f).

Colorado revised proposed Rule 2.05.3(4)(b), concerning the applicable design requirements for sedimentation ponds, whether temporary or permanent, to correct typographical errors and clarify the intent of the rule. Colorado's proposed Rule 2.05.3(4)(b) is consistent with and as effective as the Federal regulations at 30 CFR 780.25(c) and 784.16(c).

The Director, based on the above discussion, approves Colorado's proposed Rules 2.05.3(4); 2.05.3(4)(a)(iii), (iv), (v), (vi), and (vii); and 2.05.3(4)(b) concerning application requirements for sedimentation ponds, other treatment facilities, impoundments, banks, dams, and embankments.

4. Rules 2.05.3(8)(a)(iii), (iv), (v) and (vi), Coal Mine Waste and Non-Coal Processing Waste Banks, Dams, or Embankments

Colorado proposed at Rule 2.05.3(8)(a)(iii), concerning coal mine waste and non-coal processing waste banks, dams, or embankments, to revise its requirements for impoundments that must meet the applicable requirements of the State Engineer. Specifically, Colorado proposed to refer to the defined term impoundment (rather than reservoir) and to correct a typographical error by requiring any impoundment with a capacity of 100 (rather than 1000) acre feet to meet the applicable requirements of the State Engineer. OSM has no counterpart Federal regulations requiring such impoundments to meet requirements of the State Engineer; however, the revisions proposed to Rule 2.08.3(8)(a)(iii) are consistent with and as effective as the Federal regulations concerning coal processing waste impoundments at 30 CFR 780.25(c), (d) and (e) and 784.16(c), (d), and (e).

Colorado also proposed to revise Rule 2.05.3(8)(a)(iii) by recodifying the last sentence as Rule 2.05.3(8)(a)(iv). Proposed Rule 2.05.3(8)(a)(iv) requires that if a coal mine waste and non-coal processing waste banks, dams, or embankments meet or exceed the criteria of 30 CFR 77.216(a), the permittee must comply with the applicable requirements of the MSHA, 30 CFR 77.216–1 and –2. This requirement is the same as and as effective as the Federal regulations at 30 CFR 780.25(c)(2), (d) and (e) and 784.16(c)(2), (d) and (e).

Colorado proposed to add new Rule 2.05.3(8)(a)(v) that requires all impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, NRCS, Technical Release No. 60 (TR–60, 210–VI–TR60, October 1985), ''Earth Dams and Reservoirs,'' comply with the requirements for structures that meet or exceed the size or other criteria of MSHA at 30 CFR 77.216(a), and incorporated by reference TR–60 and 30 CFR 77.216(a). This requirement at proposed Rule 2.05.3(8)(a)(v) is the same as and as effective as the requirement in the Federal regulations at 30 CFR 780.25(c)(2) and 784.16(c)(2) concerning impoundments meeting the Class B or C criteria.

Colorado proposed to add new Rule 2.05.3(8)(a)(vi) which provides that (1) each plan for an impoundment which meets the Class B or C criteria in TR–60 or meets the size or other criteria of 30 CFR 77.216(a) shall include a stability analysis of the structure, (2) the stability analysis shall include, but shall not be limited to, strength parameters, pore pressure, and long term seepage conditions, and (3) the plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods. Colorado's proposed Rule 2.05.3(8)(a)(vi), concerning coal mine waste and non-coal processing waste banks, dams, or embankments, is the same as and as effective as the Federal regulations at 30 CFR 780.25(f) and 784.16(f).

The Director, based on the above discussion, approves Colorado's proposed Rules 2.05.3(8)(a)(iii), (iv), (v), and (vi), concerning coal mine waste and non-coal processing waste banks, dams, or embankments.

5. Rules 2.07.3(3) (b) and (c), Time Frame for Written Comments Concerning Technical Revisions

Colorado proposed an editorial revision at Rule 2.07.3(3)(b) to replace the ''Soil Conservation Service'' with the current agency name, the ''National Resource Conservation Service.'' Colorado proposed to revise Rule 2.07.3(3)(c) to clarify that written comments regarding technical revisions may be submitted within 10 days of the initial newspaper publication. This revision clarifies that the written comment period for a technical revision is different from the written comment period for new permits, permit revisions and permit renewals. Colorado's clarification in Rule 2.07.3(3)(c) is consistent with Colorado's existing Rule 2.08.4(6)(b)(ii) which specifies the written comment period for technical revisions.

The Federal regulations at 30 CFR 774.13(b)(2) require that the regulatory authority establish guidelines concerning the extent of revisions for which all the permit application information requirements and procedures, including public participation, shall apply. The Director

finds that Colorado's proposed Rules 2.07.3(3) (b) and (c) are consistent with and as effective as the Federal regulations at 30 CFR 773.13(b)(2).

6. Rules 1.04(31a) and 2.07.6(2)(c), Definition of ''Cumulative Impact Area'' and the Criteria for Permit Approval or Denial

A. *Rule 1.04(31a), Definition of ''Cumulative impact area.''* Colorado proposed at Rule 1.04(31a) a definition of ''Cumulative impact area'' meaning

the area which includes, at a minimum, the entire projected lives through bond release of: the proposed operation; all existing operations; any operation for which a permit application has been submitted to the Division; all other operations required to meet diligent development requirements for leased federal coal, for which there is actual mine development information available.

Colorado's existing Rule 1.04(51) defines the term ''general area'' to mean

with respect to hydrology, the topographic and ground water basin surrounding the area to be mined during the life of the operation which is of sufficient size, including aerial extent and depth, to include one or more watersheds containing perennial streams and ground water systems and to allow assessment of the probable cumulative impacts on the quality and quantity of surface and ground water systems in the basins.

The Federal definition of ''cumulative impact area'' at 30 CFR 701.5 means

the area, including the permit area, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface- and ground-water systems. Anticipated mining shall include, at a minimum, the entire projected lives through bond release of: (a) The proposed operation, (b) all existing operations, (c) any operation for which a permit application has been submitted to the regulatory authority, and (d) all operations required to meet diligent development requirements for leased Federal coal for which there is actual mine development information available.

Colorado uses the term ''cumulative impact area'' in its rules in conjunction with the term ''general area'' for which OSM has no counterpart. Colorado's proposed definition of ''cumulative impact area'' describes an area which includes, at a minimum, an area within the boundaries of mining related operations. The counterpart Federal definition of ''cumulative impact area'' describes an area including the same operations, but which would also include any area of impact outside of and resulting from operations within the boundaries of mining related operations. However, Colorado's definition of the term ''general area'' describes the topographic and ground water basin surrounding the area to be mined.

Therefore, the Director finds that Colorado's proposed definition of ''cumulative impact area,'' at Rule 1.04 (31a) used in conjunction with the existing term ''general area,'' defined at Rule 1.04(51) is an effective as the Federal definition of ''cumulative impact area'' at 30 CFR 701.5 and approves it.

B. *Rule 2.07(2)(c), written findings concerning cumulative hydrologic impacts of all anticipated mining.* Colorado proposed Rule 2.07.6(2)(c), concerning the written findings the regulatory authority must make about the probable cumulative hydrologic impacts of all anticipated coal mining prior to approval of a permit or revision application, that is, with one exception, the same as the Federal regulation at 30 CFR 773.15(c)(5). The exception is that Colorado's proposed rule uses the terms ''general and cumulative impact area'' where the Federal regulation uses the term ''cumulative impact area.'' As discussed in finding No. 6.A above, the Director found that Colorado's use of the terms ''general area'' and ''cumulative impact area'' is as effective as the use of the term ''cumulative impact area'' in Federal regulations.

Based on the above discussion, the Director finds that proposed Rule 2.07.6(2)(c), in conjunction with Colorado's proposed definition of ''cumulative impact area'' at Rule 1.04(31a) and existing definition of ''general area'' at Rule 1.04(51), is the same as and as effective as the Federal regulation at 30 CFR 773.15(c)(5), concerning the written findings about cumulative hydrologic impacts necessary for permit application approval. The Director approves proposed Rule 2.07.6(2)(c).

7. Rules 4.05.2(1), (2), (3)(a), (4), (5) and (6), Sedimentation Ponds and Other Treatment Facilities (Siltation Structures) and Water Quality Standards and Effluent Limitations

Colorado proposed to revise Rule 4.05.2, concerning sedimentation ponds and other treatment facilities and water quality standards and effluent limitations, to include in paragraphs (1), (2), (3)(a), (4), (5) and (6) a reference to the term ''other treatment facilities,'' so that all the requirements of these rules apply to the use of ''other treatment facilities'' as well as ''sedimentation ponds.''

The counterpart Federal regulations at 30 CFR 816.46 and 817.46 refer to the use of siltation structures. Colorado has deleted its definition of ''siltation structure,'' added a definition of ''other treatment facilities'' (see finding No. 1) and revised its definition of ''sedimentation pond'' (see finding No. 2). Wherever the Federal regulations at 30 CFR 816.46 and 817.46 refer to the term ''siltation structures,'' Colorado refers to the terms ''sedimentation pond'' and ''other treatment facilities.'' Colorado's proposed revisions at Rule 4.05.2 are otherwise the same as the respective counterpart Federal regulations at 30 CFR 816.42, 816.46, 817.42 and 817.46 as follows:

Rule 4.05.2(1), 30 CFR 816/817.46(b)(2)
Rule 4.05.2(2), 30 CFR 816/817.46(b)(5)
Rule 4.05.2(3)(a), 30 CFR 816/817.46(e)(2)
Rule 4.05.2(4), 30 CFR 816/817.46(a)(1) and (2)
Rule 4.05.2(5), 30 CFR 816/817.46(d)(2)
Rule 4.05.2(6), 30 CFR 816/817.42

The Federal regulations at 30 CFR 701.5 define ''siltation structures'' to mean sedimentation ponds or other treatment facilities. Because Colorado uses the terms ''sedimentation ponds'' and ''other treatment facilities'' wherever the Federal regulations use the term ''siltation structure,'' Colorado's rules are the same as the Federal regulations. Therefore, the Director finds that Colorado's proposed Rules 4.05.2(1), (2), (3)(a), (4), (5), and (6) are as effective as the counterpart Federal regulations at 30 CFR 816.42, 816.46, 817.42 and 817.46 and approves them.

8. Rule 4.05.6, Sedimentation Ponds and Other Treatment Facilities

Colorado proposed to recodify and or revise Rule 4.05.6, concerning general requirements for sedimentation ponds, as follows:

Rule 4.05.6(1) to make the requirements of Rule 4.05.6 applicable to ''other treatment facilities'' as well as ''sedimentation ponds;''

Rule 4.05.6(2) to require that sedimentation ponds and other treatment facilities be designed, constructed and maintained in compliance with Rules 4.05.6 and 4.05.9;

Rule 4.05.6(3) to make the requirements of Rules 4.05.6(3)(a), (3)(b) and (3)(c) applicable to other treatment facilities as well as sedimentation ponds, and to delete Rule 4.05.6(3)(d) and (3)(e) concerning design and construction requirements for spillways (Colorado proposed these requirements in Rule 4.05.9, see finding No. 10);

Rule 4.05.6(4) requiring that spillways for sedimentation ponds and other treatment facilities comply with Rule 4.05.9(2);

Rule 4.05.6(5) requiring all supporting calculations, documents and drawings used to establish the requirements of Rules 4.05.6 and 4.05.9, be included in

the permit application including any revisions to a permit (note: this was an existing rule previously codified as 4.05.6(7) and was only revised to make the rule applicable to permit revisions and reference 4.05.6 rather than 4.05.6(3));

Rule 4.05.6(6) requiring that sedimentation ponds be designed, constructed and maintained to prevent short-circuiting to the extent possible (note: this was an existing rule previously codified as Rule 4.05.6(9) and not otherwise revised); and

Rule 4.05.6(7) requiring that sedimentation ponds or other treatment facilities not be removed until the disturbed area is reclaimed and it is demonstrated that the requirements of Rule 4.05.2(2) are met and if proposed to remain as permanent structures, it must be demonstrated that the requirements of Rule 4.05.9 are met (note: this was an existing rule previously codified as 4.05.6(14) and revised only so that its requirements apply to other treatment facilities as well as sedimentation ponds).

Wherever the Federal regulations at 30 CFR 816.46 and 817.46 refer to the term ''siltation structures,'' Colorado refers to the terms ''sedimentation pond'' and ''other treatment facilities.'' Colorado's proposed Rule 4.05.6 is otherwise the same as or similar to the respective counterpart Federal regulations at 30 CFR 780.12(a)(4), 780.18(b), 816.46 and 817.46 as follows:

Rule 4.05.6(1), 30 CFR 816/817.46(c)(1)(i) and (d)
Rule 4.05.6(1)(a), 30 CFR 816/817.46(b)(3)
Rule 4.05.6(1)(b), 30 CFR 816/871.46(c)(1)(ii)
Rule 4.05.6(2), 30 CFR 816/817.46(b)(4)
Rule 4.05.6(3)(a), 30 CFR 816/817.46(c)(1)(iii) (B and C),
Rule 4.05.6(3)(b), 30 CFR 816/817.46(c)(1)(iii) (A and F)
Rule 4.05.6(3)(c), 30 CFR 816/817.46(c)(1)(iii) (D)
Rule 4.05.6(4), 30 CFR 816/817.46(c)(2)
Rule 4.05.6(5), 30 CFR 780.12(a)(4) and 780.18(b)
Rule 4.05.6(6), 30 CFR 816/817.46(c)(iii)(E)
Rule 4.05.6(7), 30 CFR 816/817.46(b)(5)

(Please note that Colorado's counterparts to the Federal regulations at 30 CFR 816.46(c)(iii) (G, H, and I) are in proposed Rule 4.05.9(7)(b) discussed in finding No. 10 below).

Therefore, the Director finds that Colorado's proposed revisions at Rule 4.05.6 are as effective as the counterpart Federal regulations at 30 CFR 780.12(a)(4), 780.18(b), 816.46 and 817.46 and approves them.

9. Rule 4.05.7, Discharge Structures

Colorado proposed to revise Rule 4.05.7, concerning the requirement to use erosion control measures to minimize disturbance from discharge structures to the hydrologic balance, by adding ''other treatment facilities'' to those sedimentation ponds, impoundments, and other structures to which the rule currently applies.

The counterpart Federal regulations at 30 CFR 816.47 and 817.47 do not refer to ''other treatment facilities''; Colorado's rule is otherwise the same as the Federal regulations. The addition of the reference to ''other treatment facilities'' provides the capability of applying the rule to a broader spectrum of structures and therefore ensuring environmental protection in a broader spectrum of circumstances.

Therefore, the Director finds that Colorado's proposed Rule 4.05.7 is consistent with and as effective as the Federal regulations at 30 CFR 816.47 and 817.47 and approves it.

10. Rules 4.05.9(1) through (21), Impoundments

OSM required at 30 CFR 906.16(d) that Colorado revise rule 4.05.9 to clearly indicate that Rules 4.05.9(1)(g) and 4.05.9(4) through (13) apply to both temporary and permanent impoundments (56 FR 1371, January 14, 1991). OSM required at 30 CFR 906.16(e) that Colorado revise Rule 4.05.9(2) to remove the phrase ''in which water is impounded by a dam'' (56 FR 1371, January 14, 1991).

Colorado proposed to extensively revise Rule 4.05.9 concerning the performance standards specific to impoundments. Colorado proposed to recodify and or revise Rule 4.05.9 as follows:

Rule 4.05.9(1) requiring that the design, construction and maintenance of all impoundments, including sedimentation ponds, sediment treatment facilities, or other treatment facilities shall be in compliance with Rule 4.05.9, and in compliance with all applicable Federal and State water quality standards;

Rules 4.05.9(2)(a) through (e) specifying the requirements for impoundment spillway systems;

Rule 4.05.9(3), identifying impoundments that must meet the design requirements of the State Engineer;

Rule 4.05.9(4), identifying impoundments that must meet the criteria of MSHA at 30 CFR 77.216(a);

Rule 4.05.9(5), requiring persons who impound water for a beneficial use to meet all applicable State laws;

Rule 4.05.9(6), requiring stability of embankments, foundations and abutments and a foundation investigation for those impoundments meeting the criteria of the State Engineer, the size or other criteria of MSHA at 30 CFR 77.216(a) or the criteria of TR–60;

Rule 4.05.9(7) specifying requirements for all impoundment embankments;

Rules 4.05.9(8)(a) and (b), requiring safety factors for impoundments meeting the size or other criteria of MSHA at 30 CFR 77.216(a) or TR–60 (minimum safety factor of 1.5 and a seismic safety factor of at least 1.2) and those that do not (a minimum static safety factor of 1.3);

Rule 4.05.9(9), requiring the protection of embankments from erosion;

Rule 4.05.9(10), requiring adequate freeboard for all impoundments and specifying the freeboard hydrograph criteria for impoundments meeting the Class B or Class C criteria for dams in TR–60;

Rule 4.05.9(12), specifying that the vertical portion of any remaining highwall shall be located far enough below the low-water line, along the full extent of the highwall, to provide adequate safety and access for the proposed water users;

Rule 4.05.9(13)(a) through (f), concerning the bases for approval of a permanent impoundment;

Rule 4.05.9(14), specifying the inspection requirements for all impoundments;

Rule 4.05.9(15), specifying the contents of certified inspection reports;

Rule 4.05.9(17), specifying quarterly inspection requirements for certain impoundments;

Rules 4.05.9(18)(a) through (e) identifying those impoundments that can be exempted from the quarterly inspection requirements of Rule 4.05.9(17) with requirements specific to them;

Rule 4.05.9(19), identifying emergency procedures if an examination or inspection indicates a potential hazard;

Rule 4.05.9(20), requiring that examination of impoundments that meet the criteria of the State Engineer be in accordance with the requirements of the State Engineer; and

Rule 4.05.9(21), requiring that examination of impoundments meeting the size or other criteria of MSHA at 30 CFR 77.216(a) or the Class B or C criteria for dams in TR–60 be in accordance with the requirements of 30 CFR 77.216–3.

Colorado's proposed revisions at Rule 4.05.9 that, with five exceptions having no Federal counterparts, are the same as or similar to the Federal regulations at 30 CFR 816.49 and 817.49 as follows:

Rule 4.05.9(1), 30 CFR 816/817.49

Rule 4.05.9(2), 30 CFR 816/817.49(a)(9)
Rule 4.05.9(2)(a), 30 CFR 816/817.49(a)(9)(i)
Rule 4.05.9(2)(a)(i), 30 CFR 816/817.49(9)(i)(A)
Rule 4.05.9(2)(a)(ii), 30 CFR 816/817.49(a)(9)(i)(B)
Rule 4.05.9(2)(b), no Federal counterpart
Rule 4.05.9(2)(c), 30 CFR 816/817.49(a)(9)(ii)
Rule 4.05.9(2)(c)(i), 30 CFR 816/817.49(a)(9)(ii)(B)
Rule 4.05.9(2)(c)(ii), 30 CFR 816/817.49(a)(9)(ii)(C)
Rule 4.05.9(2)(d), 30 CFR 816/817.49(a)(9)(ii)(A) and 30 CFR 816/817.49(a)(1)
Rule 4.05.9(2)(e), 30 CFR 816/817.49(c)(2)
Rule 4.05.9(2)(e)(i), 30 CFR 816/817.49(c)(2)(i)
Rule 4.05.9(2)(e)(ii), 30 CFR 816/817.49(c)(2)(ii)
Rule 4.05.9(3), no Federal counterpart
Rule 4.05.9(4), 30 CFR 816/817.49(a)(2)
Rule 4.05.9(5), no Federal counterpart
Rule 4.05.9(6), 30 CFR 816/817.49(a)(6)(i)
Rule 4.05.9(7)(a), 30 CFR 816/817.49(a)(6)(ii)
Rule 4.05.9(7)(b), 30 CFR 816/817.46(c)(iii)(G, H, I)
Rule 4.05.9(7)(c) through (e), 30 CFR 816/817.49(a)(7)
Rule 4.05.9(8)(a), 30 CFR 816/817.49(a)(4)(i)
Rule 4.05.9(8)(b), 30 CFR 816/817.49(a)(4)(ii)
Rule 4.05.9(9), 30 CFR 816/817.49(a)(8)
Rule 4.05.9(10), 30 CFR 816/817.49(a)(5)
Rule 4.05.9(12), 30 CFR 816/817.49(a)(10)
Rule 4.05.9(13)(a), 30 CFR 816/817.49(b)(2) and (6)
Rule 4.05.9(13)(b), 30 CFR 816/817.49(b)(1) and (3)
Rule 4.05.9(13)(c), 30 CFR 816/817.49(b)(4)
Rule 4.05.9(13)(d), 30 CFR 816/817.49(b)(5)
Rule 4.05.9(13)(e), 30 CFR 816/817.49(b)(1)
Rule 4.05.9(13)(f), 30 CFR 816/817.49(b)(6)
Rule 4.05.9(14), 30 CFR 816/817.49(a)(11)(i)
Rule 4.05.9(15), 30 CFR 816/817.49(a)(11)(ii) and (iii)
Rule 4.05.9(17), 30 CFR 816/817.49(a)(11)(iii) and (a)(12)
Rule 4.05.9(18) (a through e), no Federal counterpart
Rule 4.05.9(19), 30 CFR 816/817.49(a)(13)
Rule 4.05.9(20), no Federal counterpart
Rule 4.05.9(21), 30 CFR 816/817.49(a)(12)

Please note that (1) Colorado's counterpart to the Federal regulation at 30 CFR 816/817.49(a)(3) concerning certification of plans for impoundments is at existing Rule 2.05.3(4)(i) and (ii), and (2) Colorado's Rule 4.05.9(11), concerning routine maintenance of dams and embankments, and Rule 4.05.9(16), concerning emergency modification of a dam or impoundment, were existing rules that were only recodified with no revision and are not included in the above discussion and list.

All but five of Colorado's proposed revisions at Rule 4.05.9 are the same as or similar to the counterpart Federal regulations at 30 CFR 816.49 and 817.49 (the exceptions that have no Federal counterparts are discussed below in findings Nos. 10.A, 10.B, and 10.C). Therefore, the Director finds that the proposed revisions to Rule 4.05.9 identified in the above chart as being the same as or similar to the counterpart Federal regulations (1) are as effective as the counterpart Federal regulations at 30 CFR 816.46, 816.49, 817.46 and 817.49 as identified in the chart above, and (2) satisfy the required amendments at 30 CFR 906.16(d) and (e). The Director approves them and removes the required amendments.

A. *Rule 4.05.9(2)(b), Design of impoundments with a combination of a principal and emergency spillway.* Colorado proposed at Rule 4.05.9(2)(b) that if an impoundment is designed and constructed with a combination of a principal and emergency spillways, there shall be no out-flow through the emergency spillway during the passage of runoff resulting from the 10-year 24-hour precipitation event, regardless of the volume of water and sediment directed to the impoundment from any underground working or surface pit (please note that OSM has previously found that Colorado's 10-year 24-hour event is equivalent to the 25-year 6-hour event specified in the Federal regulations). Colorado's proposed rules concerning impoundment spillways are otherwise the same as the Federal regulations at 30 CFR 816.49(a)(9) and 817.49(a)(9). There is no direct Federal counterpart to proposed Rule 4.05.9(2)(b). However, the proposed rule is consistent with the Federal regulations at 30 CFR 816.49(a)(9)(ii)(C) (and Colorado's proposed Rule 4.05.9(2)(c)(ii)), which require that impoundments designed and constructed with a combination of principal and emergency spillways safely pass the 10-year 24-hour precipitation event. Colorado's proposed Rule 4.05.9(2)(b) effectively requires an applicant to consider all sources of water that may flow into an impoundment when designing the capacity of the impoundment. For these reasons, the Director finds that proposed Rule 4.05.9(2)(b) is as effective as the Federal regulations concerning impoundment spillway design at 30 CFR 816.49(a)(9) and 817.49(a)(9). The Director approves Rule 4.05.9(2)(b).

B. *Rules 4.05.9(3), (5) and (20), Impoundments which must meet the requirements of other State laws.* Colorado's proposed Rules 4.05.9 (3) and (20) require impoundments that meet the specifications of the State Engineer to be designed and inspected in accordance with the requirements of the State Engineer. Colorado's proposed Rule 4.05.9(5) requires persons who impound water for a beneficial use to meet all applicable State laws. There are no counterpart Federal regulations. However, the Federal regulations concerning permits on Federal lands at 30 CFR 740.13(a)(2) require that every person conducting surface coal mining and reclamation operations on Federal lands comply with, among other things, all other applicable State and Federal laws and regulations. The Director finds that Colorado's proposed Rules 4.05.9(3), (5), and (20), concerning impoundments that must comply with other State laws, are consistent with and as effective as the Federal regulations at 30 CFR 740.13(a)(2). The Director approves proposed Rules 4.05.9(3), (5), and (20).

C. *Rules 4.05.9(18) (a) through (e), Allowance for exemption of certain impoundments from the requirements for quarterly examinations.* Colorado proposed new language at Rule 4.05.9(18) allowing Colorado to approve a waiver of the quarterly impoundment examinations required in Rule 4.09.9(17) for certain impoundments, if the permittee demonstrates in writing that failure of the impoundments will not create a threat to public health and safety or threaten significant environmental harm. The written safety demonstration must be submitted by a professional engineer, as part of a permit application (proposed Rule 4.05.9(18)(b)). Prior to approving the waiver, Colorado must conduct a field inspection to verify the adequacy of the safety demonstration (proposed Rule 4.05.9(18)(d)). The proposed rule also allows the annual inspection of the impoundments that are exempt from quarterly examinations to be conducted by a qualified person other than a professional engineer (proposed Rule 4.05.9(18)(c)).

Impoundments which may quality for Colorado's approval of the waiver from quarterly examinations must not be the primary sediment control for a particular area, must be located in reclaimed areas to enhance the postmining land use and must be either completely incised or must not exceed 2 acre-feet in capacity nor have embankments larger than 5 feet in height measured from the bottom of the channel (as measured vertically from the upstream toe of the embankment to the bottom of the spillway; proposed Rule 4.05.9(18)(a)). If a waiver is approved, Colorado must periodically inspect the impoundments and areas downstream to verify that the safety demonstration remains adequate (proposed Rule 4.05.9(18)(e)). Colorado may terminate an approved waiver, for good cause, if conditions of the impoundment or conditions downstream from the impoundment are such that failure of the impoundment will create a threat to public health and safety or threaten significant

environmental harm (proposed Rule 4.05.9(18)(e)).

Because, with the exception of those rules requiring quarterly examinations and the annual inspection to be conducted by a professional engineer, all rules in the Colorado program concerning impoundments would apply to these impoundments constructed in the reclaimed environment, these small impoundments would (1) be shown on a map as required at Rule 2.04.7(4)(e); (2) have general and detailed plans prepared by a professional engineer as required by Rule 2.05.3(4); (3) be subject to the design requirements for impoundments at Rule 4.05.9; and (4) be subject to the requirements at proposed Rule 4.05.9(14)(a) for an inspection by a professional engineer during and upon completion of construction.

Colorado stated in its ''Statement of Basis, Specific Statutory Authority, and Purpose'' that the impoundments described in proposed Rule 4.05.9(18) are typically constructed at Colorado mine sites to enhance the postmining land uses of rangeland and wildlife habitat and are considered beneficial features in mine site reclamation plans.

The Federal regulations at 30 CFR 816.49(a)(11) and (12) and 817.49(a)(11) and (12), concerning the inspection of impoundments, do not provide for exemptions. However, OSM Directive No. TSR–2, Transmittal No. 375, dated September 14, 1987, entitled ''Quarterly Examination of Water Impoundments,'' exempts impoundments constructed without an embankment from the quarterly examination requirement since there is no embankment to examine for structural weaknesses or other hazardous conditions. This directive is applicable to the evaluation of State programs as well as to the implementation, administration and enforcement of a Federal program. That portion of Colorado's proposed Rule 4.05.18(a) which allows a waiver of quarterly examination for completely incised impoundments is consistent with the OSM Directive No. TSR–2.

Colorado's proposed Rule 4.05.18 is also consistent with precedent set by OSM's approval of a similar amendment to the Illinois permanent regulatory program. OSM approved in Illinois a rule exempting from quarterly inspections impounding structures that impound water to a design elevation not more than 5 fee above the upstream toes of the structure and have a storage volume of not more than 20 acre-feet (see finding No. 9, 56 FR 64966, 64968, December 13, 1991), OSM's approval in Illinois was based, in part, on Illinois' requirements that (1) an application for the exemption contain a report sealed by a professional engineer which finds that the structure would pose no threat to life, property or the environment, (2) Illinois would field verify the report prior to approval and periodically thereafter, and (3) Illinois would terminate the exemption if warranted. Colorado's proposed Rule 4.05.9(18) contains similar provisions yet would apply to smaller impounding structures (those that impound water to a design elevation not more than 5 feet above the upstream toes of the structure and have a storage volume of not more than 2, not 20, acre-feet).

Based on the above discussion, the Director finds that Colorado's proposed Rule 4.05.9(18) is as effective as the Federal regulations at 30 CFR 816.49(a)(11) and (12) and 817.49(a)(11) and (12) and approves it.

11. Rules 4.05.18(1)(a) Through (c), Stream Buffer Zone

Colorado proposed to revise Rule 4.05.18, concerning stream buffer zones, by revising Rules 4.05.18(1)(a) through (c) and deleting Rule 4.05.18(3) so that Rule 4.05.18 is the same as the Federal regulations at 30 CFR 816.57 and 817.57. The this reason, the Director finds that Colorado's proposed Rules 4.05.18 is as effective as the Federal regulations at 30 CFR 816.57 and 817.57 and approves it.

12. Rule 1.04(93a), Definition of ''Point of Compliance,'' and Rules 2.05.6(3)(b)(iv), 4.05.13(1)(a) Through (c), 4.21.4(10) and 4.28.3(16), Ground Water Monitoring

Colorado proposed to add or revise Rules 1.04(93a), 2.05.6(3)(b)(iv), 4.05.13(1)(a) and (b), 4.21.4(10), and 4.28.3(16), concerning addition of a definition for ''Point of compliance'' and revising requirements for a hydrologic monitoring plan, ground water monitoring, coal exploration, and coal processing plants and support facilities, to include requirements for ground water monitoring at points of compliance.

Colorado proposes at Rule 1.04(93a) to define ''Point of compliance'' to mean:

> any geographic location at which compliance with applicable ground water quality standards established by the Water Quality Control Commission must be attained and where this compliance will be demonstrated by compliance monitoring of the groundwater or by other valid means approved by the Division.

Colorado's proposed revision of its rules, in effect, adds detailed provisions requiring operators to monitor for and be in compliance with State ground water quality standards at specific points of compliance. With respect to ground water monitoring at points of compliance, these rules have no direct counterpart in the Federal regulations.

Colorado, in order to ensure that the State ground water quality program concerning points of compliance was adequately administered, was obligated by State law to define and include ground water quality points of compliance in the Colorado program. Colorado's existing requirements for ground water monitoring, counterpart to the Federal regulations at 30 CFR 780.21(c) and 816.41 and 817.41, are in Rules 4.05.13(1)(a) and (c). OSM finds that Colorado's proposed requirements for ground water monitoring at points of compliance are separate from, and may be in addition to, the SMCRA-mandated ground water monitoring requirements. OSM bases this interpretation on the language in proposed Rules 4.05.13(1)(a) and (b) where Colorado states, respectively, that ''ground water shall be monitored in a manner approved by the Division, including but not limited to specific points or compliance'' and ''[t]hese points of compliance shall be monitoring locations in addition to any other monitoring points required by the Division.'' Also, at proposed Rule 4.05.13(1)(b)(iii), concerning ground water monitoring for points of compliance, Colorado states ''[m]onitoring points established under 4.05.13(1)(c) [counterpart to SMCRA-mandated monitoring] may be utilized for this purpose, when appropriate.'' By these statements in the proposed rules concerning points of compliance, Colorado has distinguished between OSM's requirements for ground water monitoring and the requirements in its program for a ground water monitoring program in compliance with the Colorado Water Quality Control Commission's requirements.

The Federal regulations at 30 CFR 816.41(c)(1) and 817.41(c)(1) require that ground-water monitoring be conducted according to the ground-water monitoring plan approved under 30 CFR 780.21(i) and provide that the regulatory authority may require additional monitoring when necessary. The requirement for additional ground water monitoring in Colorado's program proposed at Rules 1.04(93a), 2.05.6(3)(b)(iv), 4.05.13(1)(a) and (b), 4.21.4(10), and 4.28.3(16) is consistent with the Federal regulations at 30 CFR 780.21(i)(2) and (j)(2), 816.41(c)(1) and 817.41(c)(1), 815.15(i), and 827.12(c), all of which require monitoring in compliance with other State and Federal laws. In addition, the Federal regulations at 30 CFR 816.42 and 817.42 mandate that all discharges (including

ground water discharges) must be made in compliance with all applicable State and Federal water quality control laws and regulations. Colorado's proposed addition of rules concerning ground water monitoring for points of compliance ensures that all State ground water monitoring requirements are followed by operators and enforced under the Colorado program, which clearly is consistent with the goals of the Federal program at 30 CFR 816.41 and 817.42.

Based on the above discussion, the Director finds that Colorado's proposed Rules 1.04(93a), 2.05.6(3)(b)(iv), 4.05.13(1)(a) and (b), 4.21.4(10), and 4.28.3(16) are consistent with and as effective as the Federal regulations at 30 CFR 816.41 and 817.42 and approves them.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (administrative record No. CO–691–1), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Colorado program (administrative record no. CO–691–1).

By memorandum dated June 26, 2000 (administrative record No. NM–691–3), the U.S. Department of Interior, Fish and Wildlife Service (FWS), commented that (1) it is the policy of FWS to require formal section 7 consultation under the Endangered Species Act of 1973, as amended, if there is any water depletion associated with mining and related activities (e.g., sediment pond or other pond development) in the Upper Colorado River Basin; (2) ponds below 6,500 feet elevation, and deeper than 1 foot, that are connected to waterways are considered a potential non-native fish source and outlets must be screened, or if within the 50 year flood plain, must be screened and or bermed (with potential for section 7 consultation if this is not thought to be possible); and (3) Colorado's proposed rules concerning the 100 foot buffer zone should be revised to provide for a 300 foot buffer zone because this would better protect riparian ecosystem that may occur adjacent to the stream.

With respect to the FWS comments concerning water depletion, potential non-native fish source and section 7 consultation requirements, Colorado's existing Rule 2.04.11 concerning fish and wildlife resource information, requires that Colorado consult with the appropriate State and Federal fish and wildlife management, conservation, or land management agencies having responsibilities for fish and wildlife or their habitats. Colorado's existing Rule 2.05.6(2) requires the permit applicant to submit a fish and wildlife plan and existing Rule 2.05.6(2)(b) requires that Colorado submit this plan to the FWS for review within 10 days upon request by the FWS.

With respect to the FWS comment requesting that Colorado's proposed Rule 4.05.18 require a 300 foot rather than a 100 foot stream buffer zone, the counterpart Federal regulations at 30 CFR 816.57 and 817.57 require a 100 foot stream buffer zone.

As discussed under the Director's findings above, the Colorado rules proposed in this amendment are no less effective than the counterpart Federal regulations. OSM can only require that the Colorado program contain rules no less effective than the counterpart Federal regulations. For this reason, the Director is taking no further action in response to these comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written agreement from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Colorado proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA's to agree on the amendment. However, under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from EPA (administrative record No. CO–691–1). EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On May 25, 2000, we requested comments on Colorado's amendment (administrative record No. CO–691–1). but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the amendment sent to us by Colorado on May 12, 2000.

We approve, as discussed in:

Finding No. 1, Rules 1.04(71), (81a), (86a) and (137a), concerning the definitions of land use, other treatment facilities, permanent impoundment and temporary impoundment;

Finding No. 2, Rule 1.04(115), concerning the definition of sedimentation pond;

Finding No. 3, Rules 2.05.3(4), (4)(a)(iii), (iv), (v) and (vii), and (4)(b), concerning the reclamation plan requirements for sedimentation ponds and other treatment facilities, impoundments, banks, dams and embankments;

Finding No. 4, Rules 2.05.3(8)(a)(iii), (iv), (v) and (vi), concerning coal mine waste and non-coal processing waste banks, dams, or embankments;

Finding No. 5, Rules 2.07.3(3)(b) and (c), concerning the time frame for written comments on technical revisions;

Finding No. 6, Rules 1.04(31a) and 2.07.6(2)(c), concerning the definition of cumulative impact area and the criteria for permit approval or denial;

Finding No. 7, Rules 4.05.2(1), (2), (3)(a), (4), (5) and (6), concerning performance standards for sedimentation ponds and other treatment facilities;

Finding No. 8, Rule 4.05.6, concerning the general requirements for sedimentation ponds and other treatment facilities;

Finding No. 9, Rule 4.05.7, concerning requirements for discharge structures;

Finding No. 10, Rule 4.05.9, concerning the performance standards for impoundments;

Finding No. 11, Rules 4.05.18(1)(a) through (c), concerning protection of stream buffer zones; and

Finding No. 12, Rules 1.04(93a), 2.05.6(3)(b)(iv), 4.05.13(1)(a) through (c), 4.21.4(10) and 4.28.3(16), concerning the definition of point of compliance and ground water monitoring at points of compliance.

We approve the rules as proposed by Colorado with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 906, which codify decisions concerning the Colorado program. We are making this final rule effective immediately to expedite the State program amendment process and to encourage States to make their programs conform with the Federal standards. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: a. does not have an annual effect on the economy of $100 million; b. will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and c. does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on any local, State, or Tribal governments or private entities.

List of Subjects in 30 CFR Part 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 3, 2000.

Brent T. Wahlquist,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 906 is amended as set forth below:

PART 906—COLORADO

1. The authority citation for part 906 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 06.15 is amended in the table by adding a new entry in chronological order by ''date of final publication'' to read as follows:

§ 906.15 Approval of Colorado regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * * *
May 12, 2000	November 24, 2000	Rules 1.04 (31a), (71), (81a), (86a), (93a), (115) and (137a); 2.05.3(4), (4)(a)(iii), (iv), (v) and (vii), and (4)(b); 2.05.3(8)(a)(iii), (iv), (v) and (vi); 2.07.3(3)(b) and (c); 2.07.6(2)(c) and (3)(b)(iv); 4.05.2(1), (2), (3)(a), (4), (5) and (6); 4.05.6; 4.05.7; 4.05.9; 4.05.13(1)(a) through (c); 4.05.18(1)(a) through (c); 4.21.4(10) and 4.28.3(16).

3. Section 906.16 is amended by removing and reserving paragraphs (d) and (e).

[FR Doc. 00–29970 Filed 11–22–00; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[SPATS No. TX–047–FOR]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Texas proposed revisions to and additions of regulations concerning remining, coal processing plants, and procedures for processing petitions to designate lands as unsuitable for mining. Texas intends to revise its program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: November 24, 2000.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548. Telephone: (918) 581–6430. Internet: mwolfrom@tokgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the February 27, 1980, **Federal Register** (45 FR 12998). You can find later actions concerning the Texas program at 30 CFR 943.10, 943.15, and 943.16.

II. Submission of the Amendment

By letter dated August 24, 2000 (Administrative Record No. TX–650.01), Texas sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Texas sent the amendment in response to our letter dated November 22, 1999 (Administrative Record No. TX–650), that we sent to Texas under 30 CFR 732.17(c). The amendment also includes changes made at Texas' own initiative.

We announced receipt of the amendment in the September 12, 2000, **Federal Register** (65 FR 54982). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the proposed amendment. The public comment period closed on October 12, 2000. Because no one requested a public hearing or meeting, we did not hold one.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendment to the Texas program.

Any revisions that we do not discuss below concern minor wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

A. Revisions to Texas' Regulations That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

The State regulations listed in the table below contain language that is the same as or similar to the corresponding sections of the Federal regulations. Differences between the State regulations and the Federal regulations are minor.

Topic	State regulation	Federal counterpart regulation
Initial processing procedures	TAC 12.80(a)(1)	30 CFR 764.15(a)(1)
Backfilling and grading: General grading requirements.	TAC 12.385(e)–(e)(2)(D) and TAC 12.552(e)–(e)(2)(D).	30 CFR 816.106(a)–(b)(4) and 30 CFR 817.106(a)–(b)(4)
Coal processing plants: Performance standards	TAC 12.651(13)	30 CFR 827.12(l)

Because the above State regulations have the same meaning as the corresponding Federal regulations, we find that they are no less effective than the Federal regulations.

B. Revisions to Texas' Regulations That Are Not the Same as the Corresponding Provisions of the Federal Regulations

1. TAC § 12.385(a) Backfilling and Grading: General Grading Requirements.

Texas proposed to remove the following language from this paragraph:

The requirements of this section may be modified by the Commission where the surface mining activities are reaffecting previously mined lands that have not been restored to the standards of §§ 12.330–12.384, this section, and §§ 12.386–12.403 of this title (relating to Permanent Program Performance Standards—Surface Mining Activities) and sufficient spoil is not available to otherwise comply with this section.

We are approving the removal of this language because it is not as effective as the Federal regulations at 30 CFR 816.106 concerning the backfilling and grading of previously mined areas. Also, in this rulemaking, Texas proposed and we are approving an amendment to its regulations that include provisions for backfilling and grading of previously mined areas that are as effective as the Federal regulations. Please refer to the table listed in III. Director's Findings, A. Backfilling and grading: General grading requirements.

2. TAC § 12.552(a) Backfilling and Grading: General Grading Requirements.

Texas proposed to remove the following language from this paragraph:

The requirements of this section may be modified by the Commission where the surface mining activities are reaffecting previously mined lands that have not been restored to the standards of §§ 12.500–12.551, this section, and §§ 12.553–12.572 of this title (relating to Permanent Program Performance Standards—Underground Mining Activities) and sufficient spoil is not available to otherwise comply with this section.

We are approving the removal of this language because it is not as effective as the Federal regulations at 30 CFR 817.106 concerning the backfilling and grading of previously mined areas. Also, in this rulemaking, Texas proposed and

we are approving an amendment to its regulations that include provisions for backfilling and grading of previously mined areas that are as effective as the Federal regulations. Please refer to the table listed in III. Director's Findings, A. Backfilling and grading: General grading requirements.

C. Revisions to Texas' Regulations With No Corresponding Federal Regulations

1. TAC § 12.80(a)(3)–(a)(7) Initial Processing Procedures

Texas proposed to remove paragraph (a)(3) which reads as follows:

(3) The Commission may reject petitions for designations or terminations of designations which are frivolous. Once the petition requirements for completeness are met, no party shall bear any burden of proof, but each accepted petition shall be considered and acted upon by the Commission pursuant to the procedures of this subchapter (relating to Lands Unsuitable for Mining).

As a result of this removal, Texas is redesignating paragraphs (a)(4) through (a)(7) as paragraphs (a)(3) through (a)(6). We are approving the removal and redesignations of the above regulations because there is no Federal counterpart regulation to paragraph (a)(3) and its removal and the subsequent redesignation of paragraphs (a)(4) through (a)(7) as paragraphs (a)(3) through (a)(6) will not make the Texas regulations less effective than the Federal regulations.

Also, Texas proposed to revise paragraph (a)(4) [redesignated as paragraph (a)(3)] by adding new language (shown in bold) to read as follows:

(3) If the Commission determines that the petition is incomplete, frivolous, or that the petitioner does not meet the requirement of § 12.79(a) of this title (relating to Procedures: Petitions), it shall return the petition to the petitioner with a written statement of the reasons for the determination and the categories of information needed to make the petition complete. A frivolous petition is one in which the allegations of harm lack serious merit **or available information shows that either no mineable coal resources exist in the petitioned area or the petitioned area is not or could not be subject to related surface coal mining operations and surface impacts incident to an underground coal mine or an adjoining surface mine.**

There is no Federal counterpart regulation to the language that is added to the above paragraph. However, we are approving the addition of the new language because it is not inconsistent with the Federal regulations at 30 CFR 764.15 pertaining to initial processing, recordkeeping, and notification requirements for petitions concerning lands unsuitable for mining.

2. TAC § 12.80(b)(2) Public Notice and Hearing Procedures

Texas proposed to remove paragraph (b)(2) that allows the Commission to provide for a hearing or a period of written comments on the completeness of petitions for designating areas as unsuitable for surface coal mining operations. As a result of the removal of this paragraph, Texas is redesignating paragraph (b)(3) as (b)(2). We are approving the amendments because there is no counterpart Federal regulation to paragraph (b)(2) and the removal of this paragraph and the redesignation of paragraph (b)(3) as (b)(2) will not make the Texas regulations less effective than the Federal regulations.

IV. Summary and Disposition of Comments

Federal Agency Comments

On September 6, 2000, under section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Texas program (Administrative Record No. TX–650.02). The Texas Parks and Wildlife Department Resource Protection Division responded on October 6, 2000 (Administrative Record No. TX–650.04), that its review of the proposed amendment indicates minimum impacts to fish and wildlife resources.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain the written concurrence of the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Texas proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA for its concurrence.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. TX–650.02) on September 6, 2000. The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On September 6, 2000, we requested comments on Texas' amendment (Administrative Record No. TX–650.02), but neither responded to our request.

Public Comments

We asked for public comments on the amendment, but did not receive any.

V. Director's Decision

Based on the above findings, we approve the amendment as sent to us by Texas on August 24, 2000. We approve the regulations that Texas proposed with the provision that they be published in identical form to the regulations sent to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 943, which codify decisions concerning the Texas program. We are making this final rule effective immediately to expedite the State program amendment process and to encourage Texas to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and

has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 8, 2000.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 943 is amended as set forth below:

PART 943—TEXAS

1. The authority citation for Part 943 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 943.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 943.15 Approval of Texas regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * * *
August 24, 2000	November 24, 2000	TAC § 12.80(a)(1), (3)–(7); (b)(2)–(3); § 12.385(a); (e)–(e)(2)(D); § 12.552(a); (e)–(e)(2)(D); and § 12.651(13).

[FR Doc. 00–29969 Filed 11–24–00; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

RIN 0651–AB15

Simplification of Certain Requirements in Patent Interference Practice

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office amends its rules of practice in patent interferences to simplify certain requirements relating to the declaration of interferences and the presentation of evidence.

EFFECTIVE DATE: December 26, 2000.

FOR FURTHER INFORMATION CONTACT: Fred McKelvey or Richard Torczon at 703–308–9797.

SUPPLEMENTARY INFORMATION:

Background

An interim final version of this rulemaking was published at 65 FR 56792, Sept. 20, 2000, and also at U.S. Patent and Trademark Office, 1239 Off. Gaz. 125 (Oct. 17, 2000). The rationale for the rulemaking appears with the interim rule.

Comments

The interim rule elicited two comments. One comment notes a reference in 37 CFR 1.671(e) to a rule that was deleted. That reference is eliminated in this final rule. Any other references to deleted rules in subpart E of this title should be considered obsolete. They will be eliminated in a future rulemaking.

A second comment raised a concern as to whether exhibits should be numbered, noting that there is no patent interference rule requiring that exhibits be numbered. Each exhibit needs to be identified in some unique manner. All interferences declared by the Board of Patent Appeals and Interferences (Board) at this time are subject to a ''Standing Order'' that requires that exhibits be numbered.

The same comment noted that former 37 CFR 1.682 authorized placing a publication in evidence without the need for an affidavit. According to the comment, affidavits will now be necessary. Publications generally may be placed in evidence in interference cases without an affidavit. If an objection is made by an opponent, *e.g.,* for lack of authenticity, then under the Board's practice the party has a period of time within which to supplement its evidence by properly authenticating the publication. The Board expects few, if any, problems with the admissibility of most printed publications given that most parties will have no reason to question the authenticity of most printed publications.

Regulatory Flexibility Act

This rulemaking is procedural and is not subject to the requirements of 5 U.S.C. 553 so no initial regulatory flexibility analysis is required under 5 U.S.C. 603.

Executive Order 13132: Federalism Assessment

This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

Executive Order 12866

This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (September 30, 1993).

Paperwork Reduction Act

This interim rule creates no information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Inventions and patents.

For the reasons stated in the preamble, the United States Patent and Trademark Office amends 37 CFR Part 1 as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. Amend the authority citation for 37 CFR Part 1 to read as follows:

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

2. Amend § 1.601(f) to revise paragraph (f) to read as follows:

§ 1.601 Scope of rules, definitions.

* * * * *

(f) A *count* defines the interfering subject matter between two or more applications or between one or more applications and one or more patents. When there is more than one count, each count shall define a separate patentable invention. Any claim of an application or patent that is designated to correspond to a count is a claim involved in the interference within the meaning of 35 U.S.C. 135(a). A claim of a patent or application that is designated to correspond to a count and is identical to the count is said to correspond exactly to the count. A claim of a patent or application that is designated to correspond to a count but is not identical to the count is said to correspond substantially to the count. When a count is broader in scope than all claims which correspond to the count, the count is a phantom count.

* * * * *

3. Revise § 1.606 to read as follows:

§ 1.606 Interference between an application and a patent; subject matter of the interference.

Before an interference is declared between an application and an unexpired patent, an examiner must determine that there is interfering subject matter claimed in the application and the patent which is patentable to the applicant subject to a judgment in the interference. The interfering subject matter will be defined by one or more counts. The application must contain, or be amended to contain, at least one claim that is patentable over the prior art and corresponds to each count. The claim in the application need not be, and most often will not be, identical to a claim in the patent. All claims in the application and patent which define the same patentable invention as a count shall be designated to correspond to the count.

4. Amend § 1.671 to revise paragraphs (a) and (e) to read as follows:

§ 1.671 Evidence must comply with rules.

(a) Evidence consists of affidavits, transcripts of depositions, documents and things.

* * * * *

(e) A party may not rely on an affidavit (including exhibits), patent, or printed publication previously submitted by the party under § 1.639(b) unless a copy of the affidavit, patent, or printed publication has been served and a written notice is filed prior to the close of the party's relevant testimony period stating that the party intends to rely on the affidavit, patent, or printed publication. When proper notice is given under this paragraph, the affidavit, patent, or printed publication shall be deemed as filed under § 1.640(b), § 1.640(e)(3), or § 1.672, as appropriate.

* * * * *

Dated: November 9, 2000.

Q. Todd Dickinson,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 00–30015 Filed 11–22–00; 8:45 am]

BILLING CODE 3510–16–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MI75–7284a; FRL–6907–1]

Approval and Promulgation of State Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is adjusting the applicability date for reinstating the 1-hour ozone National Ambient Air Quality Standard (NAAQS) in Allegan County, Michigan and is determining that the area has attained the 1-hour ozone NAAQS. This determination is based on 3 consecutive years of complete, quality-assured, ambient air monitoring data for the 1997–1999 ozone seasons that demonstrate the area has attained the ozone NAAQS. On the basis of this determination, EPA is also determining that certain attainment demonstration requirements, and certain related requirements of part D of subchapter I of the Clean Air Act (CAA), do not apply to the Allegan area.

EPA is also approving the State of Michigan's request to redesignate Allegan County to attainment for the 1-hour ozone NAAQS. Michigan submitted the redesignation request for the Allegan area in two submittals dated September 1, 2000 and October 13, 2000. In approving this redesignation request, EPA is also approving the

State's plan for maintaining the 1-hour ozone standard for the next 10 years as a revision to the Michigan State Implementation Plan (SIP). In this direct final rule, EPA is also notifying the public that we believe the motor vehicle emissions budgets for volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the Allegan, MI submitted maintenance plan are adequate for conformity purposes and approvable as part of the maintenance plan.

In the proposed rules section of this **Federal Register**, EPA is proposing approval of, and soliciting comments on, this SIP revision. If we receive adverse comments on this action, we will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule. We will not open a second public comment period. Parties interested in commenting on this action should do so at this time.

DATES: This ''direct final'' rule is effective January 16, 2001, unless EPA receives adverse written or critical comments by December 26, 2000. If the rule is withdrawn, EPA will publish timely notice in the **Federal Register**.

ADDRESSES: Send written comments to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone John Mooney at (312) 886–6043 before visiting the Region 5 Office.)

A copy of the SIP revision is available for inspection at the Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), Room M1500, United States Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: John M. Mooney, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6043.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Adjustment of Applicability Date for Reinstating the 1-Hour Ozone Standard

A. Why Did EPA Revoke the 1-hour Ozone Standard in Allegan?

On June 5, 1998 (63 FR 31014), July 22, 1998 (63 FR 39432) and June 9, 1999 (64 FR 30911), the EPA revoked the 1-hour ozone NAAQS in many areas around the country in anticipation of implementing the new 8-hour ozone NAAQS that was established in 1997. EPA revoked the 1-hour standard to allow areas that were showing attainment to redirect their focus toward meeting the new 8-hour standard. On June 9, 1999, the EPA revoked the 1-hour standard for the Allegan area because ozone monitors were showing attainment of the ozone NAAQS.

B. Why Did EPA Reinstate the 1-hour Ozone Standard in Allegan?

On May 14, 1999, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision on the 8-hour ozone NAAQS that blocked EPA's ability to implement the new standard. That action left nearly 3,000 U.S. counties without any federal public health standard for ozone. To remedy this situation, on July 20, 2000, EPA published a final rulemaking action in the **Federal Register** (65 FR 45181) to reinstate the 1-hour standard in areas where it had been revoked, including Allegan.

C. What Does Reinstatement Mean for Allegan?

For areas with clean air quality data, like Allegan, the July 20, 2000 rulemaking (65 FR 45182) specifies that reinstating the nonattainment designation will occur 180 days after EPA published the rulemaking, on January 16, 2001. EPA believes that it is appropriate to provide nonattainment areas with clean air quality data since revocation additional time to complete the redesignation process. Therefore, EPA delayed the applicability date of the final rule for 180 days for areas that were designated nonattainment at the time of revocation and continue to have clean data, to allow States to submit redesignation requests and EPA time to act on them prior to the January 16, 2001 applicability date. The July 20, 2000 rule specifies a procedure by which EPA can synchronize the effective date of the reinstatement and the redesignation. EPA is using that procedure in this action.

II. Determination of Attainment

A. What Action Is EPA Taking?

The EPA is determining that the Allegan ozone nonattainment area has attained the NAAQS for ozone. On the basis of this determination, EPA is also determining that certain CAA requirements do not apply to the Allegan area as long as it continues to attain the ozone NAAQS. These requirements are (section 172(c)(1)) attainment demonstration requirements and (section 172(c)(9)) contingency measure requirement.

B. Why Is EPA Taking This Action?

EPA believes it is reasonable to interpret provisions regarding attainment demonstrations and certain related provisions to not require SIP submissions, as described further below, if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (*i.e.*, attainment of the NAAQS is demonstrated with three consecutive years of complete, quality-assured, air quality monitoring data). EPA made this interpretation, and described our legal rationale for it in a memo from John Seitz dated May 10, 1995. EPA is basing the determination that Allegan County has attained the ozone standard upon three years of complete, quality-assured, ambient air monitoring data for the 1997 to 1999 ozone seasons recorded at the Allegan monitoring site. These data demonstrate that Allegan County has attained the ozone NAAQS. Preliminary ozone monitoring data for 2000

continue to show that this area is attaining the ozone NAAQS.

C. What Would Be the Effect of This Action?

The requirements of section 172(c)(1) concerning the submission of a plan to ensure reasonable further progress (RFP) plan and the ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures for RFP or attainment will not apply to Allegan County.

The State must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area.

The determination in this document does not shield an area from future EPA action to require emissions reductions from sources in the area where there is evidence, such as photochemical grid modeling, showing that emissions from sources in the area contribute significantly to nonattainment in, or interfere with maintenance by, any other states with respect to the NAAQS (see section 110(a)(2)(D)). The EPA has authority under sections 110(a)(2)(A) and 110(a)(2)(D) of the CAA to require such emission reductions if necessary and appropriate to deal with transport situations.

D. What Is the Background for This Action?

The EPA believes it is reasonable to interpret provisions regarding RFP and attainment demonstrations and certain related provisions to not require SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (*i.e.*, attainment of the NAAQS demonstrated with three consecutive years of complete, quality-assured, air quality monitoring data). EPA has interpreted the general provisions of subpart 1 of part D of Subchapter I (sections 171 and 172) as not requiring the submission of SIP revisions concerning RFP, attainment demonstrations, or contingency measures, as explained in a memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' dated May 10, 1995 (See *Sierra Club* v. *EPA*, 99 F.3d 1551 (10th Cir. 1996)).

The attainment demonstration requirements of section 182(b)(1) are that the plan provide for ''such specific annual reductions in emissions * * * as necessary to attain the national primary ambient air quality standard by the attainment date applicable under the CAA.'' If an area has in fact monitored attainment of the relevant NAAQS, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. This is also consistent with the interpretation of certain section 172(c) requirements provided by EPA in the General Preamble to Title I of the Clean Air Act Amendments of 1990 (1990 Act). As EPA stated in the Preamble, no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since ''attainment will have been reached'' (57 FR 13564). Upon attainment of the NAAQS, the focus of state planning efforts shifts to the maintenance of the NAAQS and the development of a maintenance plan under section 175A.

Similarly, the EPA has previously interpreted the contingency measure requirement of section 172(c)(9) as no longer applying once an area has attained the standard since those ''contingency measures are directed at ensuring RFP and attainment by the applicable date'' (57 FR 13564). EPA has exercised this policy most recently in approvals for the Cincinnati, OH and Muskegon, MI areas (65 FR 37879 and 65 FR 52651).

The EPA has reviewed the ambient air monitoring data for ozone (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS) for Allegan County from the 1997 through 1999 ozone seasons, as recorded at the Allegan monitoring site. This data is summarized in Table 1 of this document covering EPA's analysis of the redesignation request. Preliminary monitoring data for 2000 show the area continues to attain the 1-hour ozone NAAQS. On the basis of this review, EPA determines that this area has attained the 1-hour ozone standard during the 1997–1999 period, which is the most recent three-year time period of air quality monitoring data. The State therefore is not required to submit an attainment demonstration, RFP, or a section 172(c)(9) contingency measure plan.

E. Where Is the Public Record and Where Do I Send Comments?

The official record for this direct final rule is at the addresses in the **ADDRESSES** section at the beginning of this document. The addresses for sending comments are also provided in the **ADDRESSES** section at the beginning of this document. If we receive adverse comments on this action, we will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule. We will not open a second public comment period. Parties interested in commenting on this action should do so at this time.

III. Redesignation Request

A. What Action Is EPA Taking?

The EPA is approving the redesignation request for the Allegan area because three years of ambient monitoring data demonstrate that the ozone NAAQS has been attained and the area has satisfied the other requirements for redesignation. The EPA is approving the maintenance plan submitted by the Michigan Department of Environmental Quality (MDEQ) as a revision to the SIP. The EPA is also notifying the public that we believe the motor vehicle emissions budgets for VOC and NO_X are adequate for conformity purposes and approvable as part of the maintenance plan.

B. What Would Be the Effect of the Redesignation?

The redesignation would change the official designation of Allegan County from nonattainment to attainment for the 1-hour ozone standard. It would also put a plan in place to maintain the 1-hour ozone standard for the next 10 years. This plan includes contingency measures to correct any future violations of the 1-hour ozone standard. It also includes motor vehicle emissions budgets for VOC and NO_X which would be used in any conformity determination that is made on or after the effective date of the maintenance plan approval.

C. What Is the Background for This Action?

The EPA originally designated the Allegan area as an ozone nonattainment area under section 107 of the 1977 CAA on March 3, 1978 (43 FR 8962). The EPA revisited this original designation in 1991 to reflect new designation requirements contained in the 1990 Act. On November 6, 1991 (56 FR 56694), the EPA designated Allegan County as an ozone nonattainment area. At the time of the 1991 designations, up to date monitoring data was not available for this area, nor had the State completed a redesignation request showing that it complied with the requirements of section 107 of the Act. Based on this, the EPA designated the area as nonattainment, but did not establish a nonattainment classification, establishing the area as an incomplete

data ozone nonattainment area. The preamble for the original designation contains more detail on this action (56 FR 56694).

The Allegan area has since recorded three years of complete, quality-assured, ambient air quality monitoring data for 1997–1999, thereby demonstrating that the area has attained the 1-hour ozone NAAQS.

On September 1, 2000, the State of Michigan submitted a redesignation request and section 175A maintenance plan for the Allegan ozone nonattainment area. This revised plan includes updated emissions inventory calculations and air quality monitoring data.

D. What Are the Redesignation Review Criteria?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation providing that: (1) The Administrator determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable state implementation plan and applicable federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175(A); and, (5) the state containing such area has met all requirements applicable to the area under section 110 and part D.

The EPA provided guidance on redesignation in the State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, on April 16, 1992 (57 FR 13498) and supplemented the guidance on April 28, 1992 (57 FR 18070). The EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994. (Nichols, October 1994)
2. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.
3. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993.
4. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act Deadlines,'' John Calcagni, Director, Air Quality Management Division, October 28, 1992. (Calcagni, October 1992)
5. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992.
6. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992.

E. What Is EPA's Analysis of the Request?

1. The Area Must Be Attaining the 1-Hour Ozone NAAQS

For ozone, an area may be considered attaining the 1-hour ozone NAAQS if there are no violations, as determined according to 40 CFR 50.9 and appendix H, based on three complete, consecutive calendar years of quality assured monitoring data. A violation of the 1-hour ozone NAAQS occurs when the annual average number of expected daily exceedances is equal to or greater than 1 per year at a monitoring site. A daily exceedance occurs when the maximum hourly ozone concentration during a given day is 0.125 parts per million (ppm) or higher. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in AIRS. The monitors should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

The MDEQ submitted ozone monitoring data for the 1996–1998 and the 1997–1999 ozone seasons. Table 1 below summarizes the air quality data.

TABLE 1.—1-HOUR OZONE EXCEEDANCES IN THE ALLEGAN AREA

Site	Year	Exceedances measured	Expected exceedances
Allegan Monitor: 26–005–0003	1996	1	1
	1997	0	0
	1998	1	1
	1999	1	1

This data has been quality assured and is recorded in AIRS. During the 1997–1999 time period, the monitor recorded two exceedances of the ozone NAAQS, resulting in a three year average of .67 exceedances per year. Preliminary 2000 ambient air quality monitoring data indicates that the area continues to meet the ozone NAAQS, although an exceedance may have occurred on June 9, 2000. If this June 9, 2000 exceedance is confirmed, the annual number of expected daily exceedances would be 1 for Allegan County and the area would still show attainment of the 1-hour standard.

2. The Area Must Have a Fully Approved SIP Under Section 110(k); and the Area Must Have Met All Applicable Requirements Under Section 110 and Part D

Before the Allegan area may be redesignated to attainment for ozone, it must have fulfilled the applicable requirements of section 110 and part D. The Calcagni memorandum dated September 4, 1992, states that areas requesting redesignation to attainment must fully adopt rules and programs that come due prior to the submittal of a complete redesignation request.

Section 110 Requirements

General SIP elements are delineated in section 110(a)(2) of the CAA. These requirements include but are not limited to the following: a SIP submittal containing rules the state adopted after reasonable notice and public hearing; provisions to establish and operate appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality; a permit program to implement provisions of part C, Prevention of Significant Deterioration (PSD), and part D, New Source Review (NSR) permit programs; criteria for stationary source emission control measures, monitoring and

reporting; provisions for modeling; and provisions for public and local agency participation.

For purposes of redesignation, EPA reviewed the Michigan SIP to ensure that it satisfied all requirements under the amended CAA through approved SIP provisions. A number of the requirements did not change in substance and, therefore, EPA believes that the pre-amendment SIP met these requirements. The EPA has analyzed the Michigan SIP and determined that it is consistent with the requirements of amended section 110(a)(2). (See also 61 FR 20458 and *Southwestern Growth Alliance* v. *Browner*, 144 F.3d 984 (6th Cir. 1998)).

Part D: General Provisions for Nonattainment Areas

Before Allegan County may be redesignated to attainment, the area must fulfill the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonclassifiable nonattainment areas. Subpart 2 of part D establishes additional requirements for ozone nonattainment areas classified under section 186 of the Act. As described in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' specific requirements of subpart 2 may override subpart 1's general provisions (57 FR 13501 (April 16, 1992)). However, as noted in the General Preamble, the subpart 2 requirements do not apply to ''not classified'' ozone nonattainment areas (57 FR 13525). EPA designated Allegan County as a ''not classified'' ozone nonattainment areas (56 FR 56694, November 6, 1991), codified at 40 CFR 81.323. Therefore, to be redesignated to attainment, the State must meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, but not the requirements of subpart 2 of part D.

Subpart 1 of Part D—Section 172(c) Provisions

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than 3 years from the date of the nonattainment designation.

EPA has determined that Michigan's redesignation request for Allegan County has satisfied all of the requirements under section 172(c) necessary for the area's redesignation to attainment. Many of the general requirements contained in section 172(c) are addressed by the State's pre-amendment submittal which EPA approved on May 6, 1980 (45 FR 29801). In part 2 of this rulemaking, entitled ''Determination of Attainment,'' EPA is determining that several of the section 172(c) requirements do not apply since the area has attained the ozone NAAQS. The requirements for emissions inventories under section 172(c)(3) and permits programs under section(c)(5) still need to be addressed in order to redesignate the areas. Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. The base year emissions inventory for Allegan County is satisfied by the State's submittal of the 1991 inventory for this county in the redesignation request.

Section 172(c)(5) requires permits to construct and operate new and modified major stationary sources anywhere in the nonattainment area (a NSR program). The EPA has determined that areas being redesignated do not need an approved NSR program prior to redesignation provided that the area demonstrates maintenance of the standard without a NSR program in effect. A memorandum from Mary Nichols dated October 14, 1994 describes the rationale for this decision. See discussion in the Grand Rapids, Michigan document published on June 21, 1996 (61 FR 31831). EPA has also applied this policy in redesignations of Youngstown-Warren, Columbus, Canton, Cleveland-Akron-Lorain, Dayton-Springfield, Toledo, Preble County, Columbiana County, Clinton County, and Cincinnati Ohio, as well as Detroit, Michigan. Additional information on EPA's rationale is in the approval of the redesignation request for the Cincinnati area (65 FR 37879).

The State has demonstrated that Allegan County can maintain the standard without a NSR program in effect, and, therefore, the State need not have a fully approved NSR program prior to approval of the redesignation request for the area. The MDEQ's federally delegated PSD program will become effective in Allegan County upon redesignation to attainment.

Section 176 Conformity Requirements

Section 176(c) of the CAA requires that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. This requirement applies to transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. of the Federal Transit Act (''transportation conformity''), and to all other federally supported or funded projects (''general conformity''). Section 176(c) of the CAA requires transportation conformity. EPA's transportation conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

Section 176(c) provides that state conformity revisions must be consistent with Federal conformity regulations that the CAA requires EPA to promulgate. The Federal general conformity regulations were finalized on November 30, 1993, and the Federal transportation conformity regulations were finalized on November 24, 1993. The Federal general conformity regulations have remained the same since that time, but the Federal transportation conformity regulations have been amended several times since 1993. EPA approved Michigan's general and transportation conformity SIPs on December 18, 1996 (61 FR 66607).

The Federal transportation conformity regulations were amended on August 15, 1997 (40 CFR parts 51 and 93 Transportation Conformity Rule Amendments: Flexibility and Streamlining). Michigan submitted new transportation conformity rules on November 30, 1998, in response to the 1997 changes to the Federal transportation conformity regulations. However, the Michigan rules will need to be revised again due to the March 2, 1999 court decision (*Environmental Defense Fund* v. *Environmental Protection Agency,* U.S. Court of Appeals District of Columbia Circuit, No. 97–1637) which rescinded several sections of the Federal transportation conformity rule and asked EPA to revise several sections of the Federal rule.

EPA believes it is reasonable to interpret the conformity requirements as not applying for purposes of evaluating the redesignation request under section 107(d). The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the Clean Air Act continues to apply to areas after redesignation to attainment, since such areas would be subject to a section 175A maintenance plan. Second, EPA's Federal conformity rules require the performance of conformity analyses in the absence of federally approved state rules.

Therefore, because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if state rules are not yet approved, EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. See, for example Grand Rapids redesignation at 61 FR 31835–31836 (June 21, 1996).

EPA has explained its rationale and applied this interpretation in numerous redesignation actions. See, Tampa, Florida and Cleveland-Akron-Lorain redesignations 60 FR 52748 (December 7, 1995), and 61 FR 20458 (May 7, 1996), respectively. Consequently, EPA may approve the ozone redesignation request for Allegan County notwithstanding the lack of a fully approved conformity SIP.

The on-highway motor vehicle budgets for Allegan are 9.8 tons of NO_X/day and 5.3 tons of VOC/day, based on the area's 2011 level of emissions. Allegan, MI must use the motor vehicle emissions budgets from the maintenance plan in any conformity determination made on or after the effective date of the maintenance plan approval.

The EPA believes the motor vehicle emissions budgets for VOC and NO_X are adequate for conformity purposes and approvable as part of the maintenance plan. Interested parties may comment on the adequacy and approval of the budgets by submitting their comments on this direct final rule.

If EPA receives adverse written comments with respect to the adequacy and approval of the Allegan emissions budgets, or any other aspect of our approval of this SIP, by the time the comment period closes, we will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. In this case, we will either respond to the comments on the emissions budgets in our final action or proceed with the adequacy process as a separate action.

We will also announce our action on the Allegan emissions budgets on EPA's conformity website: *http://www.epa.gov/oms/traq*, (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of SIP Submissions for Conformity'').

3. The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions

Michigan maintains that the Allegan area is the recipient of overwhelming amounts of ozone transported from the upwind Gary-Chicago-Milwaukee severe ozone nonattainment areas as demonstrated by its November 14, 1994 petition. The overwhelming transport demonstration includes urban airshed modeling (UAM) which shows that there is minimal to no change in ozone concentrations in Western Michigan even when Western Michigan VOC and NO_X emissions are entirely eliminated. The State, therefore, concludes that emission reductions within Allegan County would have little or no impact on ozone concentrations within this area. The State maintains that the improvement in air quality in Allegan is largely due to emission reductions achieved throughout the Lake Michigan region.

Nonetheless, the redesignation request demonstrates that permanent and enforceable emission reductions have occurred in the Allegan area as a result of the Federal Motor Vehicle Emission Control Program (FMVCP) and controls on industrial sources. The submittal provides a general discussion of development of the emission inventories for ozone precursors from 1991–1996 which includes estimates from EPA's NET inventory, Michigan's 1990 base year inventory, off-road mobile estimates from the Lake Michigan Air Directors Consortium (LADCO) inventory developed for use in the Lake Michigan Ozone Study (LMOS), and mobile source data using EPA's MOBILE5a mobile source emissions model. Although 1991 was not one of the years used to designate and classify the area, it was a nonattainment year. The VOC and NO_X emission inventories for the years 1991 and 1996 submitted by the State show a declining trend in emissions. The 1996 emission inventory is provided as the attainment year emission inventory.

According to the State's analysis, Allegan County reduced VOC emissions by 5.9 tons per day and NO_X emissions by 0.6 tons per day between 1991 and 1996. The emission reductions are due to a combination of FMVCP and industrial source controls.

4. The Area Must Have a Fully Approved Maintenance Plan Meeting the Requirements of Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the EPA approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the 10 years following the initial 10 year period. To address potential future NAAQS violations, the maintenance plan must contain contingency measures, with an implementation schedule to promptly correct any future air quality problems.

Section 175A(d) requires that the contingency provisions include a requirement that the State will implement all control measures that were in the SIP prior to redesignation as an attainment area.

An ozone maintenance plan should address the following five elements: Attainment inventory, demonstration of maintenance, monitoring network, verification of continued attainment, and a contingency plan.

Attainment Inventory

The State has adequately developed an attainment emissions inventory for 1996 that identifies VOC and NO_X emissions for the Allegan nonattainment area. EPA has determined that 1996 is an appropriate year on which to base attainment level emissions because monitors in the area showed attainment of the ozone NAAQS at the time. The methodologies used in developing these inventories are discussed in further detail in the State's redesignation submittal.

The attainment level of emissions are summarized below:

TABLE 2.—ALLEGAN 1996 ATTAINMENT INVENTORY—VOC AND NO_X (TONS PER DAY)

Source type	VOC	NO_X
Onroad mobile ..	6.5	9.8
Area	9.2	2.7
Point	4.5	8.4
Total	20.2	20.9

Demonstration of Maintenance

The 1991 emission inventory developed by MDEQ for the redesignation request is partially based on 1996 values using growth factors specific to Allegan County and the source classification code of each emitting process. The growth factors were made by the Economic Growth Analysis (EGAS) model for stationary sources (for point, stationary area, and nonroad mobile source categories). The State made onroad mobile estimates for 2011 using the MOBILE5a mobile source emissions model and Federal Highway Administration Performance Monitoring System traffic count data. Detailed information on the assumptions made in the inventory calculations are in EPA's TSD and in the State's submittal.

To demonstrate continued attainment, the State projected anthropogenic 1996 emissions of VOC and NO_X to 2011. These emission estimates are in the tables below and demonstrate that the VOC and NO_X emissions will decrease in future years. The results of this analysis show that the area is expected to maintain the air quality standard for at least ten years into the future. In fact, the emissions projections show that emissions will be reduced from 1996 levels by .6 tons of VOC and 3.3 tons of NO_X per day by 2011 in the Allegan area. These emission reductions will result from the implementation of FMVCP, Federal on-board vapor recovery rules, Federal National Low Emission Vehicle and Tier 2 Regulations, Title IV NO_X controls, and other federal rules expected to be promulgated for nonroad engines, autobody refinishing, commercial/consumer solvents, and architectural and industrial maintenance coatings. These estimates are conservative as they do not reflect NO_X reductions that will result from EPA's October 27, 1998 (63 FR 57356) rulemaking which requires states to reduce statewide NO_X emissions to address the regional transport of ground level ozone (NO_X SIP call).

TABLE 3.—ALLEGAN: VOC MAINTENANCE EMISSION INVENTORY SUMMARY (TONS PER DAY)

Source type	Year		
	1991	1996	2011
Point	3.9	4.5	5.7
Area	14.9	9.2	9.2
Onroad moble	7.3	6.5	4.7
Total	26.1	20.2	19.6

TABLE 4.—ALLEGAN: NO_X MAINTENANCE EMISSION INVENTOR SUMMARY (TONS PER DAY)

Source type	Year		
	1991	1996	2010
Point	8.3	8.4	8.4
Area	3.3	2.7	2.5
Onroad mobile	9.9	9.8	6.7
Total	21.5	20.9	17.6

The emission projections show that the emissions are not expected to exceed the level of the base year 1996 inventory during the 10-year maintenance period.

Monitoring Network

The State has committed to operate the ozone monitoring network in the Allegan area in accordance with 40 CFR part 58.

Verification of Continued Attainment

Tracking—Continued attainment of the ozone NAAQS in the Allegan area depends, in part, on the State's efforts to track continued attainment during the maintenance period. The tracking plan for the Allegan area consists of continued ambient ozone monitoring in accordance with the requirements of 40 CFR part 58.

Triggers—Michigan contends that the high concentrations of ozone monitored and modeled in the Allegan area are due to transport from upwind areas such as Chicago and Milwaukee. The State also submits that modeling to date indicates that total elimination of anthropogenic VOC and NO_X emission sources in Allegan would not affect ozone concentrations in the area. The State concludes that continued maintenance of the ozone NAAQS is dependent on continued emission reductions from upwind areas. Consequently, the State identifies as the triggering event that will cause implementation of a contingency measure an actual monitored ozone violation of the NAAQS, as defined in 40 CFR 50.9, which it determines not to be attributable to transport from upwind areas. The State's redesignation request establishes that if the State monitors a violation, the State will inform EPA that a violation has occurred, review data for quality assurance, and conduct a technical analysis including an analysis of meteorological conditions leading up to and during the exceedances contributing to the violation to determine local culpability. The State will submit a preliminary analysis to the EPA and afford the public the opportunity for review and comment. The State will also solicit and consider EPA's technical advice and analysis before making a final determination on the cause of the violation. The trigger date will be the date that the State certifies to the EPA that the State air quality data are quality assured, and that the State has determined the exceedances contributing to the violation are not attributable to transport from upwind areas. The trigger date will be within 120 days after the violation is monitored.

If the EPA disagrees with the State's final determination and believes that the violation was not attributable to transport, but to the area's own emissions, authority exists under section 179(a) and 110(k), to require the area to implement contingency measures, and section 107, to redesignate the area to nonattainment.

Contingency Plan

Despite the best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS. Therefore, as required by section 175A of the CAA, Michigan has provided contingency measures with a schedule for implementation if a future ozone air quality problem occurs. Once the triggering event is confirmed, the State will implement one or more appropriate contingency measures. The Governor or the Governor's designee will select the contingency measure within 6 months of the triggering event. Contingency measures contained in the plan include a plastic parts coating rule, a wood furniture coating rule, and gasoline loading (Stage I vapor recovery) rules. The State will develop rules for the three measures should they be necessary to address a violation of the ozone NAAQS. The State will implement one or more of these rules within 24 months of the Governor's decision to implement a contingency measure.

Commitment To Submit Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the Act, the State has committed to submit a revised maintenance SIP 8 years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional 10 years.

F. Where Is the Public Record and Where Do I Send Comments?

The official record for this direct final rule is located at the addresses in the **ADDRESSES** section at the beginning of this document. The addresses for sending comments are also provided in the **ADDRESSES** section at the beginning of this document. If EPA receives adverse written comments on this action, we will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule. We will not open a second public comment period. Parties interested in commenting on this action should do so at this time.

If we receive adverse written comments with respect to the adequacy and approval of the Allegan emissions budgets, or any other aspect of our approval of this SIP, by the time the comment period closes, we will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. In this case, we will

either respond to the comments on the emissions budgets in our final action or proceed with the adequacy process as a separate action.

IV. Disclaimer Language Approving SIP Revisions

Ozone SIPs are designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the ozone NAAQS. This redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the ozone emission limitations and restrictions in the approved ozone SIP. The State cannot make changes to ozone SIP regulations which will render them less stringent than those in the EPA approved plan unless it submits to EPA a revised plan for attainment and maintenance and EPA approves the revision. Unauthorized relaxations, deletions, and changes could result in both a finding of nonimplementation (section 173(b) of the CAA) and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the CAA.

V. What Administrative Requirements Did EPA Consider?

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-

effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective January 16, 2001 unless EPA receives adverse written comments by December 26, 2000.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 23, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Air pollution control, Environmental protection, Hydrocarbons, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control, Environmental protection, National parks, Wilderness area.

Authority: 42 U.S.C. 7401–7671 *et seq.*

Dated: November 15, 2000.

Gary Gulezian,

Acting Regional Administrator, Region 5.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart X—Michigan

2. Section 52.1174 is amended by adding paragraph (t) to read as follows:

§ 52.1174 Control strategy: Ozone.

* * * * *

(t) Approval—On March 9, 1995, the Michigan Department of Environmental Quality submitted a request to redesignate the Allegan County ozone nonattainment area to attainment. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act, as amended in 1990. Elements of the section 175A maintenance plan include a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records a violation of the 1-hour ozone NAAQS, determined not to be attributable to transport from upwind areas, Michigan will implement one or more appropriate contingency measure(s) which are in the contingency plan. The menu of contingency measures includes rules for plastic parts coating, wood furniture coating, and gasoline loading (Stage I vapor recovery).

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 81.323 the table entitled ''Michigan—Ozone (1-hour standard)'' is amended by revising the entry for ''Allegan County Area: Allegan County'' and footnote to read as follows:

§ 81.323 Michigan.

* * * * *

MICHIGAN—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Allegan County Area:				
Allegan County	January 16, 2001	Attainment.		
* * *	*	* *		*

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

[FR Doc. 00–30004 Filed 11–22–00; 8:45 am]
BILLING CODE 6560–50–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

40 CFR Part 1601

Freedom of Information Act Program

AGENCY: Chemical Safety and Hazard Investigation Board

ACTION: Final rule.

SUMMARY: The Chemical Safety and Hazard Investigation Board adopts regulations establishing policies and procedures for requesting and disclosing records under the Freedom of Information Act (FOIA). The FOIA requires Federal agencies to create regulations establishing procedures for its implementation. These regulations will ensure the proper handling of agency records and requests for those records under the FOIA.

DATES: This rule is effective December 26, 2000.

FOR FURTHER INFORMATION CONTACT: Ray Porfiri, 202–261–7629.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 4, 2000 (65 FR 59155), the Chemical Safety and Hazard Investigation Board published a proposed rule setting forth its proposed procedures for disclosure of records under the Freedom of Information Act (FOIA). The proposed rule provided for a 30-day comment period. No comments were received in response to the proposed rule and invitation for comments. This final rule is unchanged from the proposed rule.

These regulations implement the FOIA, 5 U.S.C. 552, as amended by the Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231, 110 Stat. 3048. The Board adopts the following set of regulations to discharge its responsibilities under the FOIA. The FOIA establishes: basic procedures for public access to agency records and guidelines for waiver or reduction of fees the agency would otherwise assess for the response to the records request; categories of records that are exempt for various reasons from public disclosure; and basic requirements for Federal agencies regarding their processing of and response to requests for agency records.

Regulatory Flexibility Act

The Board, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this regulation and by adopting it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Thus, fees assessed by the Board will be nominal. Further, the ''small entities'' that make FOIA requests, as compared with individual requesters and other requesters, are relatively few in number.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, we did not deem any action necessary under the provisions of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48.

List of Subjects in 40 CFR Part 1601

Administrative practice and procedure, Archives and records, Freedom of information.

Chapter VI—Chemical Safety and Hazard Investigation Board

For the reasons set forth in the preamble, the Chemical Safety and Hazard Investigation Board establishes 40 CFR Chapter VI—Chemical Safety and Hazard Investigation Board, consisting of parts 1600 through 1699, reserves parts 1600 and 1602 through 1699, and adds part 1601 to read as follows:

PART 1600 [RESERVED]

PART 1601—PROCEDURES FOR DISCLOSURE OF RECORDS UNDER THE FREEDOM OF INFORMATION ACT

PART 1602–1699 [RESERVED]

Subpart A—Purpose, Scope, and Applicability

Sec.

Subpart B—Administration

Subpart C—Procedures for Requesting and Disclosing Records

Subpart D—Fees

Authority: 5 U.S.C. 552, 553; 42 U.S.C. 7412 *et seq.*

PART 1600 [RESERVED]

PART 1601—PROCEDURES FOR DISCLOSURE OF RECORDS UNDER THE FREEDOM OF INFORMATION ACT

PART 1602–1699 [RESERVED]

Subpart A—Purpose, Scope, and Applicability

§ 1601.1 Purpose and scope.

This part contains the regulations of the United States Chemical Safety and Hazard Investigation Board (''CSB'' or ''Board'' or ''agency'') implementing the Freedom of Information Act (''FOIA''). These regulations provide procedures by which members of the public may obtain access to records compiled, created, and maintained by the CSB, along with procedures it must follow in response to such requests for records.

§ 1601.2 Applicability.

(a) *General.* The FOIA and the regulations in this part apply to all CSB documents and information. However, if another law sets specific procedures for disclosure, the CSB will process a request in accordance with the procedures that apply to those specific documents. If a request is received for disclosure of a document to the public which is not required to be released under those provisions, the CSB will consider the request under the FOIA and the regulations in this part.

(b) *Records available through routine distribution procedures.* When the record requested includes material published and offered for sale, *e.g.,* by the Superintendent of Documents of the Government Printing Office, or by an authorized private distributor, the CSB will first refer the requester to those sources. Nevertheless, if the requester is not satisfied with the alternative sources, the CSB will process the request under the FOIA.

§ 1601.3 Definitions.

Appeals Officer means the person designated by the Chairperson to process appeals of denials of requests for CSB records under the FOIA.

Business submitter means any person or entity which provides confidential business information, directly or indirectly, to the CSB and who has a proprietary interest in the information.

Chairperson means the Chairperson of the CSB (including, in the absence of a Chairperson, the Board Member supervising personnel matters) or his or her designee.

Commercial-use requester means requesters seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the CSB shall determine, whenever reasonably possible, the use to which a requester will put the documents requested. Where the CSB has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the CSB shall seek additional clarification before assigning the request to a specific category.

Confidential business information means records provided to the government by a submitter that arguably contain material exempt from disclosure under Exemption 4 of the FOIA, because disclosure could reasonably be expected to cause substantial competitive harm.

Direct costs means those expenditures by the CSB actually incurred in searching for and duplicating records to respond to a FOIA request. Direct costs include the salary of the employee or employees performing the work (the basic rate of pay for the employee plus a percentage of that rate to cover benefits) and the cost of operating duplicating machinery. Direct costs do not include overhead expenses, such as the cost of space and heating or lighting of the facility in which the records are stored.

Duplication refers to the process of making a copy of a document necessary to fulfill a FOIA request. Such copies can take the form of, among other things, paper copy, microform, audio-visual materials, or machine-readable documentation. The copies provided shall be in a form that is reasonably usable by requesters.

Educational institution refers to a preschool, a public or private elementary or high school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program of scholarly research.

FOIA Officer means the person designated to process requests for CSB documents under the FOIA.

Non-commercial scientific institution refers to an institution that is not operated on a commercial basis as that term is used above in defining *commercial-use requester*, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

Record includes any writing, drawing, map, recording, tape, film, photo, or other documentary material by which information is preserved.

Representative of the news media refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. For freelance journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization. A publication contract would be the clearest proof, but components shall also look to the past publication record of a requester in making this determination.

Requester means any person, including an individual, Indian tribe, partnership, corporation, association, or public or private organization other than a Federal agency, that requests access to records in the possession of the CSB.

Review refers to the process of examining a record, in response to a FOIA request, to determine whether any portion of that record may be withheld under one or more of the FOIA exemptions. It also includes the processing of any record for disclosure; for example, redacting information that is exempt from disclosure under the FOIA. Review does not include time spent resolving general legal or policy issues regarding the use of FOIA exemptions.

Search refers to the time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within a document. The CSB shall ensure that searches are conducted in the most efficient and least expensive manner reasonably possible.

Submitter means any person or entity who provides information directly or indirectly to the CSB. The term includes, but is not limited to, corporations, Indian tribal governments, state governments, and foreign governments.

Working day means a Federal workday that does not include Saturdays, Sundays, or Federal holidays.

Subpart B—Administration

§ 1601.10 Protection of records.

(a) Except as authorized by this part or as otherwise necessary in performing official duties, no employee shall in any manner disclose or permit disclosure of any document or information in the possession of the CSB that is confidential or otherwise of a nonpublic nature, including that regarding the CSB, the Environmental Protection Agency or the Occupational Safety and Health Administration.

(b) No person may, without permission, remove from the place where it is made available any record made available to him for inspection or copying. Stealing, altering, mutilating, obliterating, or destroying, in whole or in part, such a record shall be deemed a crime.

§ 1601.11 Preservation of records pertaining to requests under this part.

The CSB will preserve all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized by Title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

§ 1601.12 Public reading room.

(a) The CSB maintains a public reading room that contains the records that the FOIA requires to be made regularly available for public inspection and copying as well as a current subject-matter index of its reading room records.

(b) Because of the lack of requests to date for material required to be indexed, the CSB has determined that it is unnecessary and impracticable to publish quarterly, or more frequently, and distribute (by sale or otherwise) copies of each index and supplements thereto, as provided in 5 U.S.C. 552(a)(2). However, the CSB will provide a copy of such indexes to a member of the public upon request, at a cost not to exceed the direct cost of duplication and mailing, if sending records by other than ordinary mail.

(c) The CSB maintains a public reading room at its headquarters: 2175 K Street, NW, Suite 400, Washington, DC 20037–1809.

(d) *Copying.* The cost of copying information available in the offices of the CSB shall be imposed on a requester

in accordance with the provisions of §§ 1601.30 through 1601.33.

(e) The CSB also makes reading room records available electronically through the agency's World Wide Web site (which can be found at http://www.csb.gov). This includes the index of its reading room records, indicating which records are available electronically.

Subpart C—Procedures for Requesting and Disclosing Records

§ 1601.20 Requests for records.

(a) *Addressing requests.* Requests for records in the possession of the CSB shall be made in writing. The envelope and the request both should be clearly marked *FOIA Request* and addressed to: FOIA Officer, United States Chemical Safety and Hazard Investigation Board, 2175 K Street, NW, Suite 400, Washington, DC 20037–1809. A request improperly addressed will be deemed not to have been received for the purposes of § 1601.24(a) until it is received, or would have been received with the exercise of due diligence, by the FOIA Officer. Records requested in conformance with this section and which are not withholdable records may be obtained in person or by mail as specified in the request. Records to be obtained in person will be available for inspection or copying during business hours on a regular business day in the office of the CSB.

(b) *Description of records.* Each request must reasonably describe the desired records in sufficient detail to enable CSB personnel to locate the records with a reasonable amount of effort. A request for a specific category of records will be regarded as fulfilling this requirement if it enables responsive records to be identified by a technique or process that is not unreasonably burdensome or disruptive of CSB operations.

(1) Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record.

(2) If the FOIA Officer determines that a request does not reasonably describe the records sought, he or she will either advise the requester what additional information is needed to locate the record or otherwise state why the request is insufficient. The FOIA Officer will also extend to the requester an opportunity to confer with CSB personnel with the objective of reformulating the request in a manner which will meet the requirements of this section.

(c) *Agreement to pay fees.* A FOIA request shall be considered an agreement by the requester to pay all applicable fees charged under §§ 1601.30 through 1601.33 up to $25, unless the requester seeks a waiver of fees. The CSB ordinarily will confirm this agreement in an acknowledgement letter. When making a request, you may specify a willingness to pay a greater or lesser amount.

(d) *Types of records not available.* The FOIA does not require the CSB to:

(1) Compile or create records solely for the purpose of satisfying a request for records;

(2) Provide records not yet in existence, even if such records may be expected to come into existence at some future time; or

(3) Restore records destroyed or otherwise disposed of, except that the FOIA Officer must notify the requester that the requested records have been destroyed or otherwise disposed of.

§ 1601.21 Responses to requests.

(a) *Response to initial request.* The FOIA Officer is authorized to grant or deny any request for a record and to determine appropriate fees.

(b) *Referral to another agency.* When a requester seeks records that originated in another Federal government agency, the CSB will refer the request to the other agency for response. If the CSB refers the request to another agency, it will notify the requester of the referral. A request for any records classified by some other agency will be referred to that agency for response.

(c) *Creating records.* If a person seeks information from the CSB in a format that does not currently exist, the CSB will make reasonable efforts to provide the information in the format requested. The CSB will not create a new record of information to satisfy a request.

(d) *No responsive record.* If no records are responsive to the request, the FOIA Officer will so notify the requester in writing.

§ 1601.22 Form and content of responses.

(a) *Form of notice granting a request.* After the FOIA Officer has granted a request in whole or in part, the requester will be notified in writing. The notice shall describe the manner in which the record will be disclosed, whether by providing a copy of the record with the response or at a later date, or by making a copy of the record available to the requester for inspection at a reasonable time and place. The procedure for such an inspection may not unreasonably disrupt the operation of the CSB. The response letter will also inform the requester of any fees to be charged in accordance with the provisions of §§ 1601.30 through 1601.33.

(b) *Form of notice denying a request.* When the FOIA Officer denies a request in whole or in part, he or she will so notify the requester in writing. The response will be signed by the FOIA Officer and will include:

(1) The name and title or position of the person making the denial;

(2) A brief statement of the reason or reasons for the denial, including the FOIA exemption or exemptions which the FOIA Officer has relied upon in denying the request; and

(3) A statement that the denial may be appealed under § 1601.23 and a description of the requirements of that section.

§ 1601.23 Appeals of denials.

(a) *Right of appeal.* If a request has been denied in whole or in part, the requester may appeal the denial to: FOIA Appeals Officer, United States Chemical Safety and Hazard Investigation Board, 2175 K Street, NW, Suite 400, Washington, DC 20037–1809.

(b) *Letter of appeal.* The appeal must be in writing and must be sent within 30 days of receipt of the denial letter. An appeal should include a copy of the initial request, a copy of the letter denying the request in whole or in part, and a statement of the circumstances, reasons, or arguments advanced in support of disclosure of the requested record. Both the envelope and the letter of appeal must be clearly marked *FOIA Appeal.* An appeal improperly addressed shall be deemed not to have been received for purposes of the 20-day time period set forth in § 1601.24(e) until it is received, or would have been received with the exercise of due diligence, by the Appeals Officer.

(c) *Action on appeal.* The disposition of an appeal will be in writing and will constitute the final action of the CSB on a request. A decision affirming in whole or in part the denial of a request will include a brief statement of the reason or reasons for affirmance, including each FOIA exemption relied on. If the denial of a request is reversed in whole or in part on appeal, the request will be processed promptly in accordance with the decision on appeal.

(d) *Judicial review.* If the denial of the request for records is upheld in whole or in part, or if a determination on the appeal has not been mailed at the end of the 20-day period or the last extension thereof, the requester is deemed to have exhausted his or her administrative remedies, giving rise to a right of judicial review under 5 U.S.C. 552(a)(4).

§ 1601.24 Timing of responses to requests.

(a) *In general.* The CSB ordinarily shall respond to requests according to their order of receipt.

(b) *Multitrack processing.* (1) The CSB may use two processing tracks by distinguishing between simple and more complex requests based on the amount of work and/or time needed to process the request, including according to limits based on the number of pages involved. If the agency does so, it shall advise requesters assigned to its slower track of the eligibility limits for its faster track.

(2) The agency may provide requesters in its slower track with an opportunity to limit the scope of their requests in order to qualify for faster processing within the specified limits of the agency's faster track. If it does so, the agency will contact the requester either by telephone or by letter, whichever is most efficient in each case.

(c) *Unusual circumstances.* (1) Where the time limits for processing a request cannot be met because of unusual circumstances and the CSB determines to extend the time limits on that basis, the agency shall as soon as practicable notify the requester in writing of the unusual circumstances and of the date by which processing of the request can be expected to be completed. Where the extension is for more than ten working days, the CSB shall provide the requester with an opportunity either to modify the request so that it may be processed within the time limits or to arrange an alternative time period for processing the request or a modified request.

(2) Where the CSB reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they may be aggregated. Multiple requests involving unrelated matters will not be aggregated.

(d) *Expedited processing.* (1) Requests and appeals will be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged Federal government activity, if made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exists possible questions about the government's integrity which affect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within the category in paragraph (d)(1)(ii) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category in paragraph (d)(1)(ii) of this section also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within ten calendar days of its receipt of a request for expedited processing, the CSB shall decide whether to grant it and shall notify the requester of the decision. If a request for expedited treatment is granted, the request shall be given priority and shall be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision shall be acted on expeditiously.

(e) *Appeals.* A written determination on an appeal submitted in accordance with § 1601.23 will be issued within 20 working days after receipt of the appeal. This time limit may be extended in unusual circumstances up to a total of 10 working days after written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be made. As used in this paragraph, unusual circumstances means that there is a need to:

(1) Search for and collect the requested records from facilities that are separate from the office processing the request;

(2) Search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) Consult with another agency having a substantial interest in the determination of the request, or consult with various offices within the CSB that have a substantial interest in the records requested.

(f) When a determination cannot be mailed within the applicable time limit, the appeal will nevertheless be processed. In such case, upon the expiration of the time limit, the requester will be informed of the reason for the delay, of the date on which a determination may be expected to be mailed, and of that person's right to seek judicial review. The requester may be asked to forego judicial review until determination of the appeal.

§ 1601.25 Disclosure of requested records.

(a) The FOIA Officer shall make requested records available to the public to the greatest extent possible in keeping with the FOIA, except that the following records are exempt from the disclosure requirements:

(1) Records specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and which are, in fact, properly classified pursuant to such Executive Order;

(2) Records related solely to the internal personnel rules and practices of the CSB;

(3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)) provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or that the statute establishes particular criteria for withholding information or refers to particular types of matters to be withheld;

(4) Records containing trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the CSB;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential

source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(8) Records contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Geological or geophysical information and data, including maps, concerning wells.

(b) If a requested record contains exempted material along with nonexempted material, all reasonably segregable nonexempt material shall be disclosed.

(c) Even if an exemption described in paragraph (a) of this section may be reasonably applicable to a requested record, or portion thereof, the CSB may elect under the circumstances of any particular request not to apply the exemption to such requested record, or portion thereof, subject to the provisions in § 1601.26 for confidential business information. The fact that the exemption is not applied by the CSB to any requested record, or portion thereof, has no precedential significance as to the application or non-application of the exemption to any other requested record, or portion thereof, no matter when the request is received.

§ 1601.26 Special procedures for confidential business information.

(a) *In general.* Confidential business information provided to the CSB by a business submitter shall not be disclosed pursuant to a FOIA request except in accordance with this section.

(b) *Designation of business information.* Business submitters should use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, those portions of their submissions which they deem to be protected under Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4). Any such designation will expire 10 years after the records were submitted to the government, unless the submitter requests, and provides reasonable justification for, a designation period of longer duration.

(c) *Predisclosure notification.* (1) Except as is provided for in paragraph (h) of this section, the FOIA Officer shall, to the extent permitted by law, provide a submitter with prompt written notice of a FOIA request or administrative appeal encompassing its confidential business information whenever required under paragraph (d) of this section. Such notice shall either describe the exact nature of the business information requested or provide copies of the records or portions thereof containing the business information.

(2) Whenever the FOIA Officer provides a business submitter with the notice set forth in this paragraph, the FOIA Officer shall notify the requester that the request includes information that may arguably be exempt from disclosure under Exemption 4 of the FOIA and that the person or entity who submitted the information to the CSB has been given the opportunity to comment on the proposed disclosure of information.

(d) *When notice is required.* The CSB shall provide a business submitter with notice of a request whenever:

(1) The business submitter has in good faith designated the information as business information deemed protected from disclosure under 5 U.S.C. 552(b)(4); or

(2) The CSB has reason to believe that the request seeks business information the disclosure of which may result in substantial commercial or financial injury to the business submitter.

(e) *Opportunity to object to disclosure.* Through the notice described in paragraph (c) of this section, the CSB shall, to the extent permitted by law, afford a business submitter at least 10 working days within which it can provide the CSB with a detailed written statement of any objection to disclosure. Such statement shall demonstrate why the information is contended to be a trade secret or commercial or financial information that is privileged or confidential and why disclosure would cause competitive harm. Whenever possible, the business submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the business submitter. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the FOIA.

(f) *Notice of intent to disclose.* (1) The FOIA Officer shall consider carefully a business submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose confidential commercial business information. Whenever the FOIA Officer decides to disclose such information over the objection of a business submitter, the FOIA Officer shall forward to the business submitter a written notice at least 10 working days before the date of disclosure containing:

(i) A statement of the reasons for which the business submitter's disclosure objections were not sustained,

(ii) A description of the confidential commercial information to be disclosed, and

(iii) A specified disclosure date.

(2) Such notice of intent to disclose likewise shall be forwarded to the requester at least 10 working days prior to the specified disclosure date.

(g) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of confidential business information, the FOIA Officer shall promptly notify the business submitter of such action.

(h) *Exceptions to predisclosure notification.* The requirements of this section shall not apply if:

(1) The FOIA Officer determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) The designation made by the submitter in accordance with paragraph (b) of this section appears obviously frivolous; except that, in such a case, the FOIA Officer will provide the submitter with written notice of any final decision to disclose confidential business information within a reasonable number of days prior to a specified disclosure date.

Subpart D—Fees

§ 1601.30 Fees to be charged—-general.

(a) *Policy.* Generally, the fees charged for requests for records pursuant to 5 U.S.C. 552 shall cover the full allowable direct costs of searching for, reproducing, and reviewing records that are responsive to a request for information. Fees shall be assessed according to the schedule contained in paragraph (b) of this section and the category of requesters described in § 1601.31 for services rendered by the CSB staff in responding to, and processing requests for, records under this part. Fees assessed will be paid by check or money order payable to the United States Treasury.

(b) *Types of charges.* The types of charges that may be assessed in connection with the production of records in response to a FOIA request are as follows:

(1) *Searches.*

(i) *Manual searches for records.* For each quarter hour spent in searching for and/or reviewing a requested record, the fees will be: $4.00 for clerical personnel; $8.00 for professional personnel; and $11.00 for managerial personnel.

(ii) *Computer searches for records.* Requesters will be charged at the actual direct costs of conducting a search using existing programming. These direct costs will include the cost of operating the central processing unit for that portion of operating time that is directly attributable to searching for records and the operator/programmer salary, *i.e.,* basic pay plus 16 percent, apportionable to the search. A charge shall also be made for any substantial amounts of special supplies or materials used to contain, present, or make available the output of computers, based upon the prevailing levels of costs to the CSB for the type and amount of such supplies or materials that are used. Nothing in this paragraph shall be construed to entitle any person or entity, as of right, to any services in connection with computerized records, other than services to which such person or entity may be entitled under the provisions of this section or § 1601.32. The CSB will not alter or develop programming to conduct a search.

(iii) *Unproductive searches.* The CSB will charge search fees even if no records are found which are responsive to the request or if the records found are exempt from disclosure.

(2) *Duplication.* Records will be reproduced at a rate of $0.25 per page. For copies prepared by computer, such as tapes or printouts, the requester shall be charged the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction, the actual direct costs of reproducing the record(s) shall be charged.

(3) *Review.* Only commercial-use requesters may be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges may be assessed only for initial review, *i.e.,* the review undertaken the first time the CSB analyzes the applicability of a specific exemption to a particular record or portion of a record. Records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review are properly assessable.

(4) *Other services and materials.* Where the CSB elects, as a matter of administrative discretion, to comply with a request for a special service or materials, such as certifying that records are true copies or sending records by special methods, the actual direct costs of providing the service or materials will be charged.

§ 1601.31 Fees to be charged—-categories of requesters.

(a) *Fees for various requester categories.* Paragraphs (b) through (e) of this section state, for each category of requester, the types of fees generally charged by the CSB. However, for each of these categories, the fees may be limited, waived or reduced in accordance with the provisions set forth in § 1601.32(c). If the CSB has reasonable cause to doubt the purpose specified in the request for which a requester will use the records sought, or where the purpose is not clear from the request itself, the CSB will seek clarification before assigning the request a specific category.

(b) *Commercial use requester.* The CSB shall charge fees for records requested by persons or entities making a commercial use request in an amount that equals the full direct costs for searching for, reviewing for release, and reproducing the records sought. Commercial use requesters are not entitled to 2 hours of free search time nor 100 free pages of reproduction of records. In accordance with § 1601.30, commercial use requesters may be charged the costs of searching for and reviewing records even if there is ultimately no disclosure of records.

(c) *Educational and noncommercial scientific institutions.* The CSB shall charge fees for records requested by, or on behalf of, educational institutions and noncommercial scientific institutions in an amount which equals the cost of reproducing the records responsive to the request, excluding the cost of reproducing the first 100 pages. No search fee shall be charged with respect to requests by educational and noncommercial scientific institutions. For a request to be included in this category, requesters must show that the request being made is authorized by and under the auspices of a qualifying institution, and that the records are not sought for commercial use but are sought in furtherance of scholarly research (if the request is from an educational institution) or scientific research (if the request is from a noncommercial scientific institution).

(d) *News media.* The CSB shall charge fees for records requested by representatives of the news media in an amount which equals the cost of reproducing the records responsive to the request, excluding the costs of reproducing the first 100 pages. No search fee shall be charged with respect to requests by representatives of the news media. For a request to be included in this category, the requester must qualify as a representative of the news media and the request must not be made for a commercial use. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for commercial use.

(e) *All other requesters.* The CSB shall charge fees for records requested by persons or entities that are not classified in any of the categories listed in paragraphs (b), (c), or (d) of this section in an amount that equals the full reasonable direct cost of searching for and reproducing records that are responsive to the request, excluding the first 2 hours of search time and the cost of reproducing the first 100 pages of records. In accordance with § 1601.30, requesters in this category may be charged the cost of searching for records even if there is ultimately no disclosure of records, excluding the first 2 hours of search time.

(f) For purposes of the exceptions contained in this section on assessment of fees, the word *pages* refers to paper copies of 8½ × 11 inches or 11 × 14 inches. Thus, requesters are not entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or a computer disk containing the equivalent of 100 pages of computer printout meets the terms of the exception.

(g) For purposes of paragraph (e) of this section, the term *search time* has as its basis, manual search. To apply this term to searches made by computer, the CSB will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of 2 hours of the salary plus 16 percent of the person performing the search, *i.e.,* the operator, the CSB will begin assessing charges for the computer.

§ 1601.32 Limitations on charging fees.

(a) *In general.* Except for requesters seeking records for a commercial use as described in § 1601.31(b), the CSB will provide, without charge, the first 100

pages of duplication and the first 2 hours of search time, or their cost equivalent.

(b) *No fee charged.* The CSB will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. The elements to be considered in determining the cost of collecting a fee are the administrative costs of receiving and recording a requester's remittance and of processing the fee.

(c) *Waiver or reduction of fees.* The CSB may grant a waiver or reduction of fees if the CSB determines that the disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Federal government, and the disclosure of the information is not primarily in the commercial interest of the requester. Requests for a waiver or reduction of fees will be considered on a case-by-case basis.

The following factors will be considered by the CSB in determining whether a waiver or reduction of fees is in the public interest:

(i) *The subject of the request.* Whether the subject of the requested records concerns the operations or activities of the government. The subject matter of the requested records, in the context of the request, must specifically concern identifiable operations or activities of the Federal government with a connection that is direct and clear, not remote or attenuated. Furthermore, the records must be sought for their informative value with respect to those government operations or activities; a request for access to records for their intrinsic informational content alone will not satisfy this threshold consideration.

(ii) *The informative value of the information to be disclosed.* Whether the disclosure is likely to contribute to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative on specific government operations or activities in order to hold potential for contributing to increased public understanding of those operations and activities. The disclosure of information that is already in the public domain, in either a duplicative or substantially identical form, would not be likely to contribute to such understanding, as nothing new would be added to the public record.

(iii) *The contribution to an understanding of the subject by the general public.* Whether disclosure of the requested information will contribute to the public understanding. The disclosure must contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons. A requester's identity and qualifications, e.g., expertise in the subject area and ability and intention to convey information to the general public, will be considered.

(iv) *The significance of the contribution in public understanding.* Whether the disclosure is likely to significantly enhance the public understanding of government operations or activities. The public's understanding of the subject matter in question, as compared to the level of public understanding existing prior to the disclosure, must be likely to be enhanced by the disclosure to a significant extent. The FOIA Officer shall not make a separate value judgment as to whether information, even though it in fact would contribute significantly to public understanding of the operations or activities of the government, is ''important'' enough to be made public.

(2) In order to determine whether the second fee waiver requirement is met, i.e., that disclosure of the requested information is not primarily in the commercial interest of the requester, the CSB shall consider the following two factors in sequence:

(i) *The existence and magnitude of a commercial interest.* Whether the requester, or any person on whose behalf the requester may be acting, has a commercial interest that would be furthered by the requested disclosure. In assessing the magnitude of identified commercial interests, consideration will be given to the effect that the information disclosed would have on those commercial interests, as well as to the extent to which FOIA disclosures serve those interests overall. Requesters shall be given a reasonable opportunity in the administrative process to provide information bearing upon this consideration.

(ii) *The primary interest in disclosure.* Whether the magnitude of the identified commercial interest of the requester is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester. A fee waiver or reduction is warranted only where, once the public interest standard set out in paragraph (c)(1) of this section is satisfied, that public interest can fairly be regarded as greater in magnitude than that of the requester's commercial interest in disclosure. The CSB will ordinarily presume that, where a news media requester has satisfied the public interest standard, the public interest will be serviced primarily by disclosure to that requester. Disclosure to requesters who compile and market Federal government information for direct economic gain will not be presumed to primarily serve the public interest.

(3) Where only a portion of the requested record satisfies the requirements for a waiver or reduction of fees under this paragraph, a waiver or reduction shall be granted only as to that portion.

(4) A request for a waiver or reduction of fees must accompany the request for disclosure of records and should include:

(i) A clear statement of the requester's interest in the records;

(ii) The proposed use of the records and whether the requester will derive income or other benefit from such use;

(iii) A statement of how the public will benefit from release of the requested records; and

(iv) If specialized use of the documents is contemplated, a statement of the requester's qualifications that are relevant to the specialized use.

(5) A requester may appeal the denial of a request for a waiver or reduction of fees in accordance with the provisions of § 1601.23.

§ 1601.33 Miscellaneous fee provisions.

(a) *Notice of anticipated fees in excess of $25.* Where the CSB determines or estimates that the fees chargeable will amount to more than $25, the CSB shall promptly notify the requester of the actual or estimated amount of fees or such portion thereof that can be readily estimated, unless the requester has indicated his or her willingness to pay fees as high as those anticipated. Where a requester has been notified that the actual or estimated fees may exceed $25, the request will be deemed not to have been received until the requester has agreed to pay the anticipated total fee. A notice to the requester pursuant to this paragraph will include the opportunity to confer with CSB personnel in order to reformulate the request to meet the requester's needs at a lower cost.

(b) *Aggregating requests.* A requester may not file multiple requests at the same time, each seeking portions of a record or records, solely in order to avoid the payment of fees. When the CSB reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request into a series of requests for the purpose of evading the assessment of fees, the CSB may aggregate such requests and charge accordingly. One

element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred. The CSB will presume that multiple requests of this type made within a 30-day period have been made in order to evade fees. Where requests are separated by a longer period, the CSB shall aggregate them only where there exists a solid basis for determining that such aggregation is warranted, *e.g.,* where the requests involve clearly related matters. Multiple requests regarding unrelated matters will not be aggregated.

(c) *Advance payment of fees.* (1) The CSB does not require an advance payment before work is commenced or continued, unless:

(i) The CSB estimates or determines that the fees are likely to exceed $250. If it appears that the fees will exceed $250, the CSB will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees. In the case of requesters with no history of payment, the CSB may require an advance payment of fees in an amount up to the full estimated charge that will be incurred; or

(ii) The requester has previously failed to pay a fee in a timely fashion, *i.e.,* within 30 days of the date of a billing. In such cases, the CSB may require the requester to pay the full amount owed plus any applicable interest, as provided in paragraph (d) of this section, or demonstrate that the fee owed has been paid, prior to processing any further record request. Under these circumstances, the CSB may require the requester to make an advance payment of the full amount of the fees anticipated before processing a new request or finishing processing of a pending request from that requester.

(2) A request for an advance deposit shall ordinarily include an offer to the requester to confer with identified CSB personnel to attempt to reformulate the request in a manner which will meet the needs of the requester at a lower cost.

(3) When the CSB requests an advance payment of fees, the administrative time limits described in 5 U.S.C. 552(a)(6) begin only after the CSB has received the advance payment.

(d) *Interest.* The CSB may assess interest charges on an unpaid bill starting on the 31st day following the day on which the bill was sent. Once a fee payment has been received by the CSB, even if not processed, the accrual of interest shall be stayed. Interest charges shall be assessed at the rate prescribed in 31 U.S.C. 3717 and shall accrue from the date of the billing.

(e) Whenever a total fee calculated under paragraph (d) of this section is $14.00 or less for any request, no fee will be charged.

Dated: November 16, 2000.

Christopher W. Warner,

General Counsel.

[FR Doc. 00–29973 Filed 11–22–00; 8:45 am]

BILLING CODE 6350–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Inspector General

45 CFR Part 61

RIN 0906–AA46

Health Care Fraud and Abuse Data Collection Program: Reporting of Final Adverse Actions; Correction

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Final rule; correction amendment.

SUMMARY: This document contains a correction to the final regulations which were published in the **Federal Register** on October 26, 1999 (64 FR 57740). These regulations established a national health care fraud and abuse data collection program for the reporting and disclosing of certain adverse actions taken against health care providers, suppliers and practitioners, and for maintaining a data base of final adverse actions taken against health care providers, suppliers and practitioners. An inadvertent error appeared in the text of the regulations concerning the definition of the term ''health plan.'' As a result, we are making a correction to 45 CFR 61.3, Definitions, to assure the technical correctness of these regulations.

EFFECTIVE DATE: November 24, 2000.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, OIG Regulations Officer, (202) 619–0089.

SUPPLEMENTARY INFORMATION: The HHS Office of Inspector General (OIG) issued final regulations on October 26, 1999 (64 FR 57740) that established a national health care fraud and abuse data collection program—the Healthcare Integrity and Protection Data Bank (HIPDB)—for the reporting and disclosing of certain final adverse actions taken against health care providers, suppliers and practitioners, and for maintaining a data base of final adverse actions taken against health care providers, suppliers and practitioners. The final rule established a new 45 CFR part 61 to implement the requirements for reporting of specific data elements to, and procedures for obtaining information from, the HIPDB. In that final rule, an inadvertent error appeared in § 61.3—the definitions section of the regulations—and is now being corrected.

Section 61.3 expanded on previous regulatory definitions and provided additional examples of the scope of various terms set fort in the statute. In the preamble of the final rule, we reiterated that the statutory intent of the definition for the term ''health plan'' was not meant to be exclusive or exhaustive, and interpreted congressional use of the word ''includes'' in the statutory definition of this term as an indication that additional entities may be recognized as ''health plans'' if they meet the basic definition of providing health benefits. The preamble of the final rule stated that the statutory language indicated that Congress intended that guarantors of payment for health care items and services—including ''self insured employers'' who are often the subjects of health care fraud—have access to HIPDB information. As a result, in order to make the term more inclusive, we indicated our intention of modifying the fourth element defining this term to include, but not be limited to, a plan, program, agreement or other mechanism established, maintained or made available by a self insured employer or group of self insured employers. This clarifying language, however, was not properly reflected in the regulatory text that appeared in the October 26, 1999 final regulations.

To be consistent with the intent of the final rule's preamble, we are correcting the inadvertent error that appeared in § 61.3 that failed to accurately reflect the definition of the term ''health plan.''

List of Subjects in 45 CFR Part 61

Billing and transportation services, Durable medical equipment suppliers and manufacturers, Health care insurers, Health maintenance organizations, Health professions, Home health care agencies, Hospitals, Penalties, Pharmaceutical suppliers and manufacturers, Privacy, Reporting and recordkeeping requirements, Skilled nursing facilities.

Accordingly, 45 CFR part 61 is corrected by making the following correcting amendment.

PART 61—HEALTHCARE INTEGRITY AND PROTECTION DATA BANK FOR FINAL ADVERSE INFORMATION ON HEALTH CARE PROVIDERS, SUPPLIERS AND PRACTITIONERS

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 1320a–7e.

2. Section 61.3 is amended by republishing the introductory text, and by revising the definition for the term Health plan to read as follows:

§ 61.3 Definitions.

The following definitions apply to this part:

* * * * *

Health plan means a plan, program or organization that provides health benefits, whether directly, through insurance, reimbursement or otherwise, and includes but is not limited to—

(1) A policy of health insurance;

(2) A contract of a service benefit organization;

(3) A membership agreement with a health maintenance organization or other prepaid health plan;

(4) A plan, program, agreement or other mechanism established, maintained or made available by a self insured employer or group of self insured employers, a practitioner, provider or supplier group, third party administrator, integrated health care delivery system, employee welfare association, public service group or organization or professional association; and

(5) An insurance company, insurance service or insurance organization that is licensed to engage in the business of selling health care insurance in a State and which is subject to State law which regulates health insurance.

* * * * *

Dated: November 1, 2000.

William E. Clark,

Acting Director for Information Resource Management.

[FR Doc. 00–29991 Filed 11–22–00; 8:45 am]

BILLING CODE 4152–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 160 and 162

[HCFA–0149–CN]

RIN 0938–AI58

Health Insurance Reform: Standards for Electronic Transactions; Correction

AGENCY: Office of the Secretary, HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical and typographical errors that appeared in the final rule published in the **Federal Register** on August 17, 2000, entitled ''Health Insurance Reform: Standards for Electronic Transactions'' (65 FR 50312). The final rule adopted standards for eight electronic transactions and for code sets to be used in those transactions.

DATES: The effective date of this correction notice is November 24, 2000. The final rule adopted standards for eight electronic transactions and for code sets to be used in those transactions.

FOR FURTHER INFORMATION CONTACT: Joy Glass, (410) 786–6125.

SUPPLEMENTARY INFORMATION: The August 17, 2000 final rule published at 65 FR 50312 (FR Doc. 00–20820) contained technical and typographical errors. Therefore, we are making the following corrections:

1. On page 50312, in the middle column, in the eighteenth and nineteenth lines, ''http://www.access.gpo.gov/su-docs/aces/aces140.html'' is corrected to read ''http://www.access.gpo.gov/su__docs/aces/aces140.html.''

2. On page 50324, in the first column, in the twenty-ninth line, paragraph ''6. Proprietary coding systems'' is corrected to read, ''b. Proprietary coding systems.''

3. On page 50332, in the first column, in the fourth line from the bottom, ''276 comments'' is corrected to read ''267 comments.''

4. On page 50338, in the first column, in the twelfth line, ''Title VII'' is corrected to read ''Title VI.''

5. On page 50358, in Table 4—Ten Year Net Savings, the figure ''0.1'' for Savings from Manual Transactions for Health Plans in 2007 is corrected to read ''0.0.''

6. On page 50361, in the third column, section ''N. Transaction Standards'' is corrected as follows:

A. Paragraph N.1. is corrected to read as follows:

''Specific Impact of Adoption of the NCPDP Telecommunication Standard Implementation Guide, Version 5 Release 1 and Equivalent Batch Standard Implementation Guide Version 1 Release 0 for the Health Care Claim and Equivalent Encounter Information, Eligibility for a Health Plan, Referral Certification and Authorization, and Coordination of Benefits Transactions.''

B. In paragraph 1.a., in the sixth line, the words ''encounter is'' are corrected to read ''encounter, eligibility, and referral certification and authorization are.''

C. In paragraph 1.a., in the third sentence, the word ''claim'' is removed.

D. In paragraph 1.b., in the last line of the column, the word ''claim'' is removed.

Authority: Secs. 1171 through 1179 of the Social Security Act (42 U.S.C. 1320d–1320d–8), as added by sec. 262 of Public Law 104–191, 110 Stat. 2021–2031, and sec. 264 of Pub. L. 104–191, 110 Stat. 2033–2034 (42 U.S.C. 1320d–2 (note)).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 17, 2000.

Brian P. Burns,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 00–29989 Filed 11–22–00; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 1355, 1356 and 1357

[RIN 0970–AA97]

Title IV–E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACHF), Department of Health and Human Services (DHHS).

ACTION: Final rule; correction.

SUMMARY: This document corrects the regulatory text of the final rule on Title IV–E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews published in the **Federal Register** on January 25, 2000 (65 FR 4019–4093).

DATES: Effective November 24, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen McHugh, Children's Bureau, 202–401–5789.

SUPPLEMENTARY INFORMATION:

Correction

In the final rule, 45 CFR Part 1355 through 1357, beginning on page 4019 in the issue of January 25, 2000, make the following correction. On page 4075 in the second column, instruction 2 currently says, ''Section 1355.20 is amended by revising the definition of Foster care and by adding the following definitions in alphabetical order to read as follow:'' It is corrected to read, ''Section 1355.20 is amended by revising the definitions of *Foster care*

and *Foster family home* and by adding the following definitions in alphabetical order to read as follows:''

The existing instruction calls for ''adding'' a definition, rather than revising the existing definition of a foster family home. This correction is necessary to avoid two conflicting definitions from being codified in the Code of Federal Regulations.

Dated: November 17, 2000.

Brian P. Burns,

Deputy Assistant Secretary for Information Resources and Management.

[FR Doc. 00–29990 Filed 11–22–00; 8:45 am]

BILLING CODE 4184–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2592, MM Docket No. 00–140; RM–9916]

Digital Television Broadcast Services; Scottsbluff, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Duhamel Broadcasting Enterprises, licensee of station KDUH–TV, substitutes DTV channel 7 for DTV channel 20 at Scottsbluff, Nebraska. *See* 65 FR 51277, August 23, 2000. DTV channel 7 can be allotted to Scottsbluff at coordinates (42–10–21 N. and 103–13–57 W.) with a power of 32.4, HAAT of 592 meters and with a DTV service population of 95 thousand. With this action, this proceeding is terminated.

DATES: Effective January 9, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–140, adopted November 22, 2000, and released November 24, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Nebraska, is amended by removing DTV Channel 20 and adding DTV Channel 7 at Scottsbluff.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–30014 Filed 11–22–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2593, MM Docket No. 00–131; RM–9897]

Digital Television Broadcast Services; Dozier, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Alabama Educational Television Commission, licensee of noncommercial television station WDIQ–TV, substitutes DTV channel *11 for DTV channel *59 at Dozier, Alabama. *See* 65 FR 46684, July 31, 2000. DTV channel *11 can be allotted to Dozier at coordinates (31–33–16 N. and 86–23–32 W.) with a power 1.0, HAAT of 383 meters, and with a DTV service population of 231 thousand. With this action, this proceeding is terminated.

DATES: Effective January 9, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–131, adopted November 22, 2000, and released November 24, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Alabama, is amended by removing DTV channel *59 and adding DTV channel *11 at Dozier.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–30013 Filed 11–22–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2594, MM Docket No. 00–115; RM–9884]

Digital Television Broadcast Services; Redding, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of California Broadcasting, Inc., licensee of station KRCR–TV, substitutes DTV channel 34 for station KRCR–TV's assigned DTV channel 14 at Redding, California. *See* 65 FR 41036, July 3, 2000. DTV channel 34 can be allotted to Redding at coordinates (40–36–10 N. and 122–39–00 W.) with a power 166, HAAT of 1106 meters, and with a DTV service population of 318 thousand. With this action, this proceeding is terminated.

DATES: Effective January 9, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–115, adopted November 22, 2000, and released November 24, 2000. The full

text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under California, is amended by removing DTV Channel 14 and adding DTV Channel 34 at Redding.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–30012 Filed 11–22–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 390

[Docket No. FMCSA–2000–8209]

RIN 2126–AA57

Motor Carrier Identification Report

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Interim final rule.

SUMMARY: The FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSRs) to revise the requirements for filing the Motor Carrier Identification Report (MCS–150). A motor carrier is currently required to file this report before it begins to operate. As a result of this Interim final rule (IFR), the FMCSA will require each motor carrier to file an update of the report every 24 months. A motor carrier that submits similar information to a State as part of its annual vehicle registration requirement under the Performance and Registration Information Systems Management (PRISM) program will be in compliance if it files it with the appropriate State commercial motor vehicle (CMV) registration office. Section 217 of the Motor Carrier Safety Improvement Act of 1999 requires periodic updating, not more often than once every two years, of the motor carrier identification report filed by each motor carrier operating in interstate or foreign commerce.

DATES: This rule is effective on December 26, 2000. Comments must be received on or before January 23, 2001.

ADDRESSES: You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit comments electronically at *http://dms.dot.gov.* Please include the docket number that appears in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Docket Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal Holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgment page that appears after you submit comments electronically.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah M. Freund, Office of Bus and Truck Standards and Operations, FMCSA, (202) 366–1790, or Mr. Charles E. Medalen, Office of Chief Counsel, (202) 366–1354, FMCSA, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION

Background

In order to provide proper safety oversight of the regulated motor carrier community, the agency responsible for implementing and enforcing motor carrier safety regulations must know the characteristics of the individual motor carriers that comprise it. Section 217 of the Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106–159, 113 Stat. 1748, Dec. 9, 1999) (MCSIA) directed the Secretary of Transportation to: require periodic updating, not more frequently than once every 2 years, of the motor carrier identification report, form MCS–150, filed by each motor carrier conducting operations in interstate or foreign commerce.

This IFR responds to the congressional direction.

The FMCSA and its predecessor agencies have considered the issue of requiring a motor carrier to report certain identifying and demographic information several times over the years. On June 25, 1986 (51 FR 23088), the FHWA (the agency responsible for motor carrier safety before January 2000), issued a notice of proposed rulemaking (NPRM) to establish a procedure to assign safety ratings to each motor carrier that is subject to the FMCSRs and that operates in interstate or foreign commerce. The NPRM proposed that each unrated motor carrier file a questionnaire as an initial step in the safety review process. At that time, the agency anticipated that each unrated motor carrier would complete the questionnaire within the next three years. The questionnaire would have included information such as the motor carrier's legal and trade name, its business address, whether the motor carrier conducted operations in interstate or foreign commerce, the States where the motor carrier operated, the types of cargo carried, numbers of drivers and power units operated, accident and incident experience, and proof of financial responsibility.

On December 19, 1988 (53 FR 50961), the FHWA issued a final rule requiring, among other things, that each motor carrier that had not received a safety rating from the FHWA must file a one-time Motor Carrier Identification Report, MCS–150. Each new motor carrier was required to file the form within 90 days after it began to operate. A motor carrier that received a safety rating from the FHWA did not have to file, since the agency got the information when it performed a safety review. The form served four purposes: (1) To identify motor carriers previously unknown to the FHWA; (2) to update the agency's motor carrier census [now known as the Motor Carrier Management Information System, or MCMIS]; (3) to require the motor carrier to certify that it is familiar with the FMCSRs; and (4) to assist the FHWA in setting priorities for performing safety reviews. The requirement to file the MCS–150 was codified at 49 CFR 385.21. Section 385.23 of the final rule stated that a motor carrier that failed to file the MCS–150, or provided false or misleading information could be liable for a civil or criminal penalty.

On July 17, 1989 (54 FR 29912, FHWA Docket No. MC–89–6), the FHWA published an advance notice of proposed rulemaking (ANPRM) that, among other things, requested comments on the adequacy of the one-time filing of information in the MCS–150. The agency stated that it was

considering the possible use of a postcard-type form to update the information each year.

The agency listed 12 items of information that it could request a motor carrier to report and/or correct, including its name, USDOT number, address, whether the motor carrier was still operating in interstate commerce, the principal commodity transported, whether it transported hazardous materials, the number of vehicles operated (straight trucks, truck tractors, semi- or full trailers, buses), and the total number of miles operated annually in the United States. The agency reviewed the comments submitted at that time but delayed taking further action on the postcard update because the issue did not appear to demand immediate attention.

The Transportation Lawyers Association (TLA) filed a petition on March 2, 1994, requesting that the FHWA initiate a rulemaking to require motor carriers to file the MCS–150 every two years and within 20 days following a change of its name, control, ownership, or its principal place of business. The TLA also recommended that the FHWA amend the MCS–150 to include information on revenue, mileage, and accident data. On August 26, 1996 (61 FR 43816), the agency published an ANPRM concerning development of a comprehensive Motor Carrier Replacement Information/ Registration System (also known as the Unified Carrier Register (UCR)). That notice responded to congressional direction in Section 103 of the ICC Termination Act (49 U.S.C. 13908). Among the many issues raised in that ANPRM, the agency asked for comment on the possibility of periodic updating of the information in the MCS–150 and other forms, and the appropriate frequency of those updates. Because the ANPRM covered a range of issues beyond the scope of the TLA petition, the agency decided neither to grant nor deny the petition, but rather to file it as a comment to that August, 1996 docket. Although several commenters addressed the question of an update cycle for the information contained in the MCS–150, their responses varied widely. Some asserted that the data should be ''continuous and current,'' others advocated a periodic update to take place no more often than annually, while still others believed it should be updated only on an as-needed basis. However, a number of the commenters mentioned they would like to be able to update the information online. An NPRM for the UCR is under development.

On June 16, 1998 (63 FR 32801) the FHWA published an NPRM that dealt with CMV marking. Among other things, it proposed to require each new motor carrier to submit its MCS–150 before it began to operate. The agency received no adverse comments to this provision of the NPRM. The final rule that was published on June 2, 2000 (65 FR 35287) and became effective on July 3, 2000 (to be codified at 49 CFR 390.19) requires a motor carrier to submit this form before it begins operating in interstate commerce.

The MCS–150: What It Is, How It Is Used

The MCS–150 is a single-page report. A motor carrier must provide basic information, *e.g.*, name, address, telephone number, cargo classifications, any types of hazardous materials carried, numbers and types of equipment (trucks, tractors, trailers, passenger vehicles) used, number of drivers, and types of operations. A motor carrier can obtain a hard copy form from the FMCSA Office of Research, Technology and Information Management, 400 Seventh Street, SW., Washington, DC 20590, or from any of the four FMCSA Service Centers or fifty-two Division Offices. The form is printed so it may be folded and mailed, postage-paid by the FMCSA. A motor carrier can also obtain it from the Internet through the Federal Motor Carrier Safety Administration web page at: *http://www.fmcsa.dot.gov/factsfigs/formspubs.htm* under ''DOT Number—Application Form.'' The motor carrier may fill out the MCS–150 on the screen, print it, and submit it by mail or by facsimile. (A for-hire motor carrier should submit the MCS–150 along with its application for operating authority to the appropriate address shown on that form, or may submit it separately to the address mentioned on the web page.) The FMCSA is working on providing electronic filing of the MCS–150.

The FMCSA enters the information from the MCS–150 into the Motor Carrier Management Information System (MCMIS) and assigns the motor carrier a U.S. DOT identification number. The FMCSA uses the information contained in the MCMIS to track motor carrier safety performance and to assess nationwide motor carrier safety trends. The MCMIS contains motor carrier data from a variety of sources: roadside inspections, accident reports, safety and compliance reviews, and enforcement actions. Federal and State field personnel use the MCMIS to target potentially unsafe motor carriers for attention, including compliance reviews. For example, a motor carrier could be selected for a compliance review if a high percentage of its vehicles were placed out-of-service during a roadside safety inspection, or if it experienced an above average number of accidents.

The FMCSA also uses MCMIS for analytical purposes, including monitoring nationwide trends and evaluating program effectiveness. The demographic and operational information provided on the MCS–150 enables the agency to determine the safety performance of specific classes of motor carrier operations, by types of freight and passenger transportation provided, and by categories of cargoes transported. This enables the FMCSA to develop strategies to effectively address sector-specific safety issues. The information on types of passenger and freight transportation equipment operated, and the number of drivers used, facilitates the development of vehicle-type-specific safety performance information.

Motor passenger and freight transportation operations can change substantially over time. However, there currently is no requirement for most motor carriers to update this information. This severely limits the agency's ability to maintain accurate information about the motor carriers that it regulates, to gather data used to assess motor carriers' safety performance, and to assess the effectiveness of the agency's programs and activities. For-hire motor carriers, household goods freight forwarders, and property brokers are required to advise the FMCSA when there is a change in business form (*i.e.,* transfer of operating rights, reincorporation or merger, etc.) or a change in its legal or trade name. This requirement is codified at 49 CFR 365.413. A for-hire motor carrier may, also, at its option, notify the FMCSA if it ceases operations and wants to have its operating authority revoked.

The FMCSA's ability to address safety concerns with individual motor carriers, as well as to gauge the safety of the motor carrier industry as a whole, is dependent upon the agency's access to accurate and up-to-date carrier-specific information. The agency computes safety performance metrics based on the number of power units operated (SafeStat algorithm) to prioritize safety compliance reviews for motor carriers. (This issue was discussed in an April 1998 report, ''New Entrant Safety Research,'' prepared for the agency by the John A. Volpe National Transportation Systems Center, available at *http://ai.volpe.dot.gov* and in the docket.) Up-to-date and accurate information is also necessary for the

FMCSA to be able to gauge benefits and costs of its programs and activities on the safety performance of motor carriers on a national scale. The agency believes that the initial and biennial updates required under Section 217 of the MCSIA strike a reasonable balance between the value and the cost of providing the agency with current information.

As part of its preparation for the development of a Unified Carrier Register, the FMCSA has been harmonizing data on for-hire motor carriers in the Licensing and Insurance (L&I) database (formerly maintained by the Interstate Commerce Commission) with MCMIS. The agency is also addressing the problem of incomplete MCS–150 forms. It has made good progress on both activities. However, the one-time addition of this information does not address the fundamental concern that Section 217 focuses upon: the need for regular, periodic updates to provide the best information for the agency to carry out its mission.

FMCSA Decision

After careful consideration of the issues involved, the FMCSA has determined it is in the best interest of motor carrier safety to publish an IFR that will require a motor carrier to provide a biennial update of information contained in the MCS–150.

There are two reasons for requiring a motor carrier to update the information on the MCS–150 every two years, the most frequent interval authorized by Section 217 of the MCSIA. First, the two-year update cycle significantly improves the quality of the agency's data bases and its ability to optimally target inspection and enforcement resources cited under Section 3 of the MCSIA. The motor carrier industry is extremely dynamic: the number of motor carriers in the MCMIS expands by close to one percent per month. At present, more than 525,000 carriers are on file in the MCMIS system and an average of 4,200 more are added each month. The FMCSA performs quarterly assessments of its programs and activities to improve the safety of the motor carrier industry. The agency believes that an update cycle longer than two years simply will not provide the agency with the basic data it needs to perform its safety mission efficiently or effectively.

Second, recent congressional direction in the Transportation Equity Act of the 21st Century (TEA–21)(Pub. L. 105–178, 112 Stat. 107, June 9, 1998) and the MCSIA require the FMCSA to issue a number of new regulations that may have a significant impact on motor carrier safety. Some of those requirements apply to specific segments of the motor carrier industry, such as passenger transportation in CMVs designed to transport between 9 and 15 passengers, including the driver. It is critical for the agency to be able to determine the safety performance of specific categories of transportation providers. Additionally, the agency must be able to provide well-founded estimates of the potential benefits and costs of the regulations it promulgates. Having up-to-date and accurate information on the number and basic characteristics of regulated entities in critical to fulfilling this requirement.

Update Schedule

Today's IFR requires all motor carriers to file a new MCS–150 every 24 months. However, to make the procedure simple for motor carriers and manageable for the agency, the IFR sets staggered filing dates. Each motor carrier determines the month and the year in which it must file based on its USDOT number.

The Month. If a motor carrier's USDOT number ends in 1, it must file the MCS–150 update by the end of January, and every second January afterwards; if the USDOT number ends in 2, 3, 4, 5, 6, 7, 8 or 9, the carrier must file by the end of February, March, April, May, June, July, August or September, respectively, and biennially after that; and if the USDOT number ends in 0, the update must be filed by the end of October, and every two years after that.

The Year. If the next to the last digit in the motor carrier's USDOT number is odd, the carrier must file its MCS–150 update in an odd-numbered year; if even, in an even-numbered year. For purposes of this rule, zero is considered an even number.

Section 217 restricts the frequency of MCS–150 updates to no more than every two years, which limits the burden imposed by the requirement. As the system starts-up, some relatively new carriers, however, must submit their first update less than two years after initially filing the MCS–150. For example, a carrier that submitted an MCS–150 at the end of November, 1999, and received a USDOT number ending in 97, will file an update by the end of July 2001 (the seventh month of the first odd-numbered year)—a cycle of 20 months. If a new carrier with a USDOT number ending in 53 filed its MCS–150 in August, 2000, it will have to re-file by the end of March, 2001—a cycle of about 7 months. On the other hand, the staggered update system can also produce initial cycles much longer than two years. A motor carrier that submitted its MCS–150 in January, 1999, and received a USDOT number ending in 60 would not have to update its information until the end of October, 2002 (tenth month of the first even-numbered year)—a (one-time) cycle of about 45 months. And a carrier that filed its MCS–150 ten or more years ago would have an even longer first cycle. However, after the first round of updates is complete, all motor carriers will be on a firm 24-month update schedule. Due to the minimal time and effort to update the MCS–150 and the difficulty in determining how many motor carriers will be affected by this schedule, FMCSA finds that this IFR is consistent with the intent of Sec. 217.

Special situations. There are two situations where, because of the special circumstances surrounding the need for information, a motor carrier will update the information in the MCS–150 more frequently than the two-year refiling interval specified in Section 217. They are: (1) Verifications of information made during the course of compliance reviews, and (2) a motor carrier registering its CMVs in States participating in the PRISM program.

Compliance reviews. FMCSA safety investigators must have up-to-date motor carrier information to properly perform record selection and exposure-based safety analyses when they conduct compliance reviews (CRs). For that reason, the FMCSA has had a longstanding practice of requiring safety investigators to begin the CR by asking the motor carrier to verify the information contained in its MCMIS record. Since the information obtained during a CR may lead to enforcement action, it is clearly in the interest both of the motor carrier and the agency that it be accurate. Because a CR is an audit with respect to a specific party, it is not considered an information-gathering activity subject to the Paperwork Reduction Act. The agency does not believe that requesting a motor carrier to review MCS–150 information during the course of a CR is inconsistent with the requirements of Section 217.

Motor carriers in PRISM States. The PRISM program links State commercial motor vehicle registration to the safety fitness of motor carriers. PRISM began as a mandate by Congress to explore the potential of linking the commercial vehicle registration process to motor carrier safety. The intent of Congress as stated in Section 4003 of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 was to ''link the motor carrier safety information network system of the Department of Transportation and similar State

systems with the motor vehicle registration and licensing systems of the States'' to achieve two purposes: (1) Determine the safety fitness of the motor carrier prior to issuing license plates; and (2) cause the carrier to improve its safety performance through an improvement process and, where necessary, the application of registration sanctions. The program has been authorized for national implementation under Section 4004 of TEA–21. It is a key element in the FMCSA's motor carrier enforcement and safety compliance program. The States participating in PRISM receive special grants to implement the program.

The commercial vehicle registration process of the States provides the framework for the PRISM program. It serves two vital functions. First, it establishes a system of accountability by ensuring that no one receives a license plate for a vehicle without identifying the carrier responsible for the safety of the vehicle during the registration year. Second, the use of registration sanctions (denial, suspension and revocation) serve as a powerful incentive for unsafe carriers to improve their safety performance. The vehicle registration process ensures that all carriers engaged in interstate commerce are uniquely identified through a USDOT number when they register their vehicles. The safety fitness of each carrier can then be checked prior to issuing vehicle registrations. The State can refuse to register vehicles of an unfit carrier (as defined by the FMCSRs).

The FMCSA has given PRISM States access to the MCMIS database so they may issue USDOT numbers to interstate motor carriers as part of their commercial vehicle registration requirements. In addition, PRISM States require motor carriers to annually update information similar to that contained in the MCS–150 to reflect current operations. Some States enter this information directly, others forward it to the FMCSA for data entry. As of September 1, 2000, 16 States participate in the PRISM program. By the end of September, 2001, we expect a total of 21 States to participate.

In summary, the PRISM program responds to congressional direction. It serves a specific safety purpose by preventing motor carriers with significant and persistent safety deficiencies from registering their CMVs, a fundamental requirement for operating on public highways. The FMCSA has determined that, if a motor carrier in a PRISM State files information similar to what is required in the FMCSA's MCS–150 annually with the State commercial vehicle registration office, this meets the periodic filing requirement of this rule and no additional filing with the FMCSA is necessary.

The IFR does not change the requirement of 49 CFR 390.19(e) that a motor carrier must file this information, and must not furnish misleading information or make false statements.

Implementation Schedule

Until now, a motor carrier was required to file the MCS–150 once, at the time it began to operate in interstate commerce. Under the IFR, it will be required to file every 24 months. Even though the agency does not expect motor carriers to experience difficulties in complying with this new rule, it still represents a change from the status quo. The new requirement for updating the MCS–150 also requires a significant change to the FMCSA's operations and resources required to accomplish this activity. Historically, the FMCSA has received approximately 50,000 forms annually. Since the MCMIS currently contains over 500,000 unique motor carrier entries, and half of them would submit updated information each year of a 24-month update cycle, the agency's data entry and verification workload will increase by approximately 400 percent. The FMCSA has been preparing for this significant increase in activity, and expects to have the resources in place by late 2000 so it can complete the necessary planning and testing of procedures to accommodate the increased volume of data entry and verification.

In order to ease the burden on both motor carriers and the FMCSA, the new biennial update system will be distributed over the first 10 months of the calendar year. The first cycle will begin in January, 2001. Those motor carriers with an odd-number in the next-to-last digit of their USDOT number would be required to file in calendar year 2001, and those with an even number in the next-to-last digit of their USDOT number would be required to file in calendar year 2002. In each cycle, motor carriers with a USDOT number ending with the numeral 1 must file by January 31 every other year. Carriers with a number ending in 2 are to file by February 28 or 29, and so forth, through 0, the number for filing in October. During the final two months of each year, FMCSA staff will complete the necessary verification of the information filed.

For the initial phase of the implementation period, the FMCSA will allow motor carriers that would be required to file their MCS–150 by the end of January or February, 2001, to file by the end of March, 2001. The agency believes that providing this additional time is appropriate to ensure that motor carriers will have the opportunity to become aware of this new requirement, and to ensure that the agency is prepared to handle it.

Rulemaking Analyses and Notices

The FMCSA has determined it is appropriate to make this rule effective on December 26, 2000. The Administrative Procedure Act (APA) [5 U.S.C. 551 *et seq.*] allows an agency to waive the requirement for notice and comment before promulgating a rule when those procedures are ''impracticable, unnecessary, or contrary to the public interest'' [5 U.S.C. 553(b)].

In this case, prior notice and opportunity for comment are unnecessary. Section 217 directs the FMCSA in detail to amend 49 CFR 385.21 (now recodified as § 390.19) to require periodic updating of the MCS–150, and to complete the initial update of MCS–150 data within one year of the date of enactment of the MCSIA. Section 217 provides that periodic updates shall be required not more than biennially. This IFR simply promulgates the requirements of Section 217. It differs from the statute only in setting an orderly schedule for the updates. Resource limitations of the new FMCSA prevent it from implementing the update of more than half a million Motor Carrier Identification Reports as rapidly as Congress anticipated, yet the information is essential in meeting agency goals and the burden on filers is small. All of the substance of Section 217 is being adopted without change. Because the statutory mandate is specific, the rule follows it so closely, and the burden on motor carriers is extremely small, public comment would not be expected to provide information that would affect the outcome of the rulemaking proceeding. Accordingly, the FMCSA finds good cause to waive prior notice of and opportunity for comment on this rule.

However, the agency will consider comments received by the comment deadline in evaluating whether any changes to this IFR are needed. Since the 60-day comment period on this IFR ends before the first updated report must be filed, corrections or improvements that are brought to our attention can be incorporated into the rule early in the 2001 filing cycle. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FMCSA will also continue to file relevant information in

the docket as it becomes available after the comment period closing date. Please continue to review the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, and is not significant within the meaning of the Department of Transportation's regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034, February 26, 1979). The current requirement for motor carriers to file a single MCS–150 before beginning operations limits the agency's ability to maintain current information on the industry that it regulates, and to accurately gauge the safety outcomes of its programs and activities. This IFR responds to the requirement of Section 217 of the MCSIA by requiring motor carriers operating in interstate or foreign commerce to provide an update of the information filed with the FMCSA on their most recent MCS–150 no more often than every two years. As discussed in the next section, the IFR imposes so little additional burden that a full regulatory evaluation is unnecessary.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the agency has considered the effects of this IFR on small entities. The FMCSA is revising its requirement for filing the MCS–150 to respond to direction contained in Section 217 of the MCSIA. Motor carriers are required to file their MCS–150 updates according to a schedule determined by the next-to-last digit (whether the update would be filed during an odd-numbered or even-numbered year) and the last digit (the filing month) of their assigned USDOT number.

As of April, 2000, the FMCSA estimates there are 430,173 motor carriers operating between 1 and 20 powered units (trucks, truck-tractors, buses, and motorcoaches), and another 84,272 that operate an unspecified number of powered units.

The agency has estimated that it takes 20 minutes to complete the MCS–150 the first time it is filed. However, the agency estimates the biennial update would take considerably less time because most of the information is likely to be the same and motor carriers would already have had the experience of completing the form at least once before. For the purpose of this IFR, the agency estimates that the biennial update would take 10 minutes. The agency considers the time necessary for motor carriers to comply with this provision to be *de minimis:* the time requirement is estimated to be extremely small, especially in comparison to the filing of other information required from businesses in their normal course of operations. Furthermore, if the motor carrier uses the postage-paid return form provided by the agency, it will not incur costs for mailing or facsimile transmission costs. Therefore, in compliance with the Regulatory Flexibility Act, the FMCSA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. It has been determined that this rulemaking does not have a substantial direct effect on States, nor would it limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), a Federal agency must obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. An analysis of this rule has been made by the FMCSA, and it has been determined that it will affect the information collection burden associated with the currently-approved information collection covered by OMB Control No. 2126–0013 (formerly 2125–0544). The OMB approved the most recent update of this information collection on October 4, 1999. The approval period runs through October 31, 2002.

For a motor carrier filing an MCS–150 for the first time, the FMCSA estimates it takes approximately 20 minutes to gather the information and complete the form. The FMCSA estimates that there are approximately 50,000 new motor carriers annually who must file their initial MCS–150. Until now, a motor carrier has only been required to complete and file this form once, when it begins to operate CMVs in interstate commerce. The IFR requires a motor carrier to provide an update of the information every two years, starting January, 2001. For most motor carriers, it is likely that much of the information contained on the MCS–150 will remain unchanged. The FMCSA estimates that the updates required during calendar year 2000, and the biennial update starting January, 2001, would require 10 minutes. Because the agency is implementing a regulation that will require motor carriers to file this information more frequently, the FMCSA is required to submit this proposed collection of information, as revised, to OMB for review and approval. The FMCSA seeks public comment on this proposed information collection requirement.

An NPRM concerning CMV marking, published on June 16, 1998 (63 FR 32801) solicited public comments on these information collection requirements as a component of the NPRM action. The OMB previously received a summary of the comments that address the MCS–150. Comments were neutral to favorable; in fact, several commenters asked the FMCSA to consider requiring motor carriers to provide regular updates of information contained in the MCS–150.

Estimated Annual Reporting Burden:

Number of respondents: 535,000 motor carriers.

Burden hours: Biennial update: 535,000 × 50% (biennial) × 10 minutes per update = 44,583 hours; Annual initial MCS–150 filings: 50,000 × 20 minutes/60 = 16,667 burden hours. Total estimated annual burden: 61,250 hours.

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action does not have any effect on the quality of the environment.

Unfunded Mandates Reform Act of 1995

This rule does not impose a Federal mandate resulting in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. 2 U.S.C. 1531 *et seq.*

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630,

Governmental Actions and Interference with Constitutional Protected Property Rights.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in Sections 3(a) and 3(b)(2) of E.0. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

List of Subjects in 49 CFR Part 390

Highway safety, Motor carriers, Motor vehicle identification and marking, Reporting and recordkeeping requirements

In consideration of the foregoing, the FMCSA amends title 49, Code of Federal Regulations, Chapter III, as follows:

PART 390—[AMENDED]

1. Revise the authority citation for part 390 to read as follows:

Authority: 49 U.S.C. 13301, 13902, 31132, 31133, 31136, 31502, 31504; sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); sec. 217, Pub. L. 105–159, 113 Stat. 1748, 1767; and 49 CFR 1.73.

2. Amend § 390.19 by revising paragraph (a) and adding paragraph (g) to read as follows:

§ 390.19 Motor carrier identification report.

(a) Each motor carrier that conducts operations in interstate commerce must file a Motor Carrier Identification Report, Form MCS–150 at the following times:

(1) Before it begins operations; and

(2) Every 24 months, according to the following schedule:

USDOT Number ending in:	Must file by last day of:
1	January.
2	February.
3	March.
4	April.
5	May.
6	June.
7	July.
8	August.
9	September.
0	October.

(3) If the next-to-last digit of its USDOT number is odd, the motor carrier shall file its update in every odd-numbered calendar year. If the next-to-last digit of the USDOT number is even, the motor carrier shall file its update in every even-numbered calendar year.

(4) Notwithstanding the schedule set forth in paragraph (a)(2) of this section, a motor carrier that would be required to file the MCS–150 by the end of January or February, 2001 must file the form by the end of March, 2001.

* * * * *

(g) A motor carrier that registers its vehicles in a State that participates in the Performance and Registration Information Systems Management (PRISM) program (authorized under section 4004 of the Transportation Equity Act for the 21st Century [(Public Law 105–178, 112 Stat. 107]) is exempt from the requirements of this section, provided it files all the required information with the appropriate State office.

* * * * *

Issued on: November 16, 2000.

Clyde J. Hart, Jr.,

Acting Deputy Administrator.

[FR Doc. 00–30032 Filed 11–22–00; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 001103310-0310-01; I.D. 061199B]

Endangered and Threatened Species: Puget Sound Populations of Pacific Hake, Pacific Cod, and Walleye Pollock

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of determination.

SUMMARY: NMFS has completed an Endangered Species Act (ESA) status review for Pacific cod (*Gadus macrocephalus*), Pacific hake (*Merluccius productus*), and walleye pollock (*Theragra chalcogramma*) populations from the eastern North Pacific Ocean between Puget Sound, Washington, and southeast Alaska. After reviewing available scientific and commercial information, NMFS has determined that none of the petitioned populations in Puget Sound constitute ''species'' under the ESA. The agency concludes that these populations are part of larger distinct population segments (DPSs) that qualify as species under the ESA but do not warrant listing as threatened or endangered at this time. However, NMFS is adding the Georgia Basin Pacific hake DPS to the agency's list of candidate species because of remaining uncertainties about its stock structure and status.

DATES: Effective November 24, 2000.

ADDRESSES: Protected Resource Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232. Reference materials regarding this determination can be obtained via the Internet at www.nwr.noaa.gov/1salmon/salmesa/pubs.htm.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region (503) 231-2005, or Marta Nammack, NMFS, Office of Protected Resources (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Petition Background

On February 8, 1999, the Secretary of Commerce received a petition from Sam Wright of Olympia, Washington to list and designate critical habitat for 18 species of marine fishes in Puget Sound, Washington, under the ESA. On June 21, 1999 (64 FR 33037), the agency accepted the petition for seven of these species, including three members of the family Gadidae (gadids): Pacific cod, Pacific hake, and walleye pollock (also referred to as cod, hake, and pollock). The petitioner requested listings for ''species/populations or evolutionary [sic] significant units'' in Puget Sound, Washington. Under the ESA, a listing determination can address a species, subspecies, or a distinct population segment (DPS) of a species (16 U.S.C. 1532 (15)). The term ''evolutionarily significant unit'' is currently defined only for Pacific salmonid DPSs (56 FR 58612, November 20, 1991). Therefore, for definitions of these petitioned species, NMFS relied on the DPS framework described in the joint NMFS/USFWS policy (61 FR 4722, February 7, 1996), see ''Consideration as a 'Species' Under the ESA'' section.

To ensure a comprehensive review, NMFS requested comments from any party having relevant information concerning (1) biological or other relevant data that may help identify gadid DPSs; (2) the range, distribution, and size of these species' populations in Puget Sound and coastal waters of Washington and British Columbia; (3) current or planned activities and their possible impact on these species; and (4) efforts being made to protect these species in Washington and British Columbia. NMFS also requested

quantitative evaluations describing the quality and extent of estuarine and marine habitats for these species, as well as information on areas that may qualify as critical habitat in Washington. Although the status review focused on the petitioned populations in Puget Sound, NMFS also considered populations from the U.S. West Coast, British Columbia, and southeast Alaska because of their geographic proximity and potential relationship to gadid stocks in Puget Sound.

A NMFS Biological Review Team (BRT), comprising staff from NMFS' Northwest Fisheries Science Center and Alaska Fisheries Science Center, has completed a review of the best available scientific and commercial information pertaining to cod, hake, and pollock from Puget Sound to southeast Alaska (NMFS, 2000). This document summarizes the principal results of this status review. Copies of the entire BRT report and other documents pertaining to this review are available upon request (see **ADDRESSES**).

Biological Background

The following section describes briefly the general physical setting and biological attributes of cod, hake, and pollock. More detailed information can be obtained from the NMFS status review (NMFS, 2000) and species accounts contained in Miller and Lea (1972), Hart (1973), Eschmeyer *et al.* (1983), and Kessler (1985).

The petition focused on populations in Puget Sound, a fjord-like estuary located in northwest Washington State that covers an area of about 9,000 km2, including 3,700 km of coastline. It is subdivided into five basins or regions: (1) North Puget Sound, (2) Main Basin, (3) Whidbey Basin, (4) South Puget Sound, and (5) Hood Canal. The Georgia Basin is an international water body that encompasses the marine waters of Puget Sound, the Strait of Georgia, and the Strait of Juan de Fuca. The coastal drainage of the Georgia Basin is bounded to the west and south by the Olympic and Vancouver Island mountains, and to the north and east by the Cascade and Coast Ranges. The petition addressed only those stocks of hake and pollock in the Whidbey Basin, the Main Basin, the Hood Canal, and the South Puget Sound. The petitioner stated that fishery patterns, spawning locations, parasite markers, and tagging studies indicate the existence of three population groups within Puget Sound—one located in the Straits of Georgia and the area around Bellingham, one in eastern Strait of Juan de Fuca and Port Townsend Bay, and one in the area south of Admiralty Inlet that encompasses Hood Canal, Agate Passage, and Dalco Passage.

Pacific Hake

Hake range from Sanak Island in the western Gulf of Alaska to Magdalena Bay, Baja California, and are most abundant in the California Current System (Hart, 1973; Bailey, 1982; NOAA, 1990; Love, 1991). In addition to the abundant migratory population of Pacific hake that spawn offshore from Cape Mendocino, California to southern Baja California, several other stocks of Pacific hake have been identified, including at least two that spawn in Puget Sound, several in the Strait of Georgia, several in the west coast inlets of Vancouver Island, and a small-bodied (''dwarf hake'') off the west coast of southern Baja California (Nelson, 1969; Bailey *et al.*, 1982; Ermakov, 1982; Bailey and Yen, 1983; Beamish and McFarlane, 1985; Pedersen, 1985; Bollens *et al.*, 1992; Quirollo, 1992; Alados *et al.*, 1993; Methot and Dorn, 1995; Fox, 1997).

Hake may spawn more than once per season at depths between 130 and 500 m; spawning in Puget Sound occurs primarily from February through April and peaks in March (W. Palsson, Washington Department of Fish and Game (WDFW), pers. comm., 1999). Stocks in the Strait of Georgia and Puget Sound spawn adjacent to major sources of freshwater inflow, near the Frazer River in the Strait of Georgia and near the Skagit and Snohomish Rivers in Port Susan (McFarlane and Beamish, 1985; Pedersen, 1985). Eggs hatch in 4 to 6 days, depending on the water temperature. Larvae typically metamorphose into juveniles in 3 to 4 months (Hollowed, 1992). Juveniles reside in shallow coastal waters, bays, and estuaries (Dark, 1975; Bailey, 1981; Bailey *et al.*, 1982; NOAA, 1990; Dark and Wilkins, 1994; Dorn, 1995; Sakuma and Ralston, 1995; Smith, 1995) and move to deeper water as they get older (NOAA, 1990). Adult hake school at depths between 50 and 500 meters (m) during the day, then move to the surface and disband at night to feed (Sumida and Moser, 1980; McFarlane and Beamish, 1986; Tanasich *et al.*, 1991).

In Puget Sound and the Strait of Georgia, female hake mature at 4 to 5 years of age (McFarlane and Beamish, 1986) and growth ceases for both sexes at 10 to 13 years (Bailey et al., 1982). The maximum age for hake is about 20 years, but hake over age 12 are rare (Methot and Dorn, 1995). Absolute fecundity is difficult to determine because hake may spawn more than once per season. Coastal stocks have 180-232 eggs/g body weight, but Puget Sound and Strait of Georgia stocks have only 50-165 eggs/g body weight (Mason, 1986). Bailey (1982) estimated that a 28-cm female had 39,000 eggs, while a 60-cm female had 496,000 eggs.

Pacific Cod

Cod are found in continental shelf and upper continental slope waters of the North Pacific Ocean from Port Arthur, China, in the northern Yellow Sea, around the North Pacific Rim, into the Bering Sea as far north as the Chukchi Sea, and south along the North American coast to Santa Monica Bay, California (Pinkas, 1967; Hart, 1973; Bakkala *et al.*, 1984; Allen and Smith, 1988; Love, 1991; Stepanenko, 1995; Westrheim, 1996). Cod are also found off the east coast of Japan from Tokyo Bay to northern Hokkaido, on the west coast of Japan in the Sea of Japan, and off the coasts of the Sakhalin and Kurile Islands (Bakkala *et al.*, 1984; Fredin, 1985). Off North America, the southern limit of commercial cod fishing lies between Cape Flattery and Destruction Island on the Washington outer coast (Ketchen, 1961).

Cod are an important groundfish in shallow, soft-bottomed marine and estuarine habitats along the west coast (Garrison and Miller, 1982). Garrison and Miller (1982) reported that all cod life stages are found in various bays in Puget Sound and in the Strait of Juan de Fuca. Adults and large juveniles prefer mud, sand, and clay substrates, although Palsson (1990) and Garrison and Miller (1982) found adults associated with coarse sand and gravel substrates. Although cod are not considered a migratory species, individual adult cod have been found to move more than 1,000 km (NOAA, 1990; Shimada and Kimura, 1994).

Cod are single-batch spawners, releasing all ripe eggs in a single spawning event within a few minutes' time (Sakurai, 1989; Sakurai and Hattori, 1996). Spawning occurs from late fall to early spring in Puget Sound (Garrison and Miller, 1982). Cod eggs are demersal, weakly adhesive, and usually found associated with coarse sand and cobble bottoms (Phillips and Mason 1986). Eggs and larvae are found over the continental shelf between Washington and central California from winter through summer (Dunn and Matarese, 1987; Palsson, 1990). Small juveniles (between 60 and 150 mm in length) usually settle into intertidal/subtidal habitats, commonly associated with sand and eel grass, and gradually move into deeper water with increasing age (NOAA, 1990; Miller *et al.*, 1976).

In British Columbia waters, 50 percent of the male cod have been

reported to be sexually mature at 41-53 cm, and 50 percent of the females have been reported to be mature at 47-56 cm (Westrheim, 1996). For cod spawning near Port Townsend, both sexes mature by 2 years and 45 cm (NOAA, 1990). In general, fecundity in cod has been estimated between 225,000 and 5 million eggs per spawning female (Forrester, 1969; Alderdice and Forrester, 1971; Hart, 1973; NOAA, 1990; Palsson, 1990).

Walleye Pollock

Pollock are found in the waters of the northeastern Pacific Ocean from the Sea of Japan, north to the Sea of Okhotsk, east to the Bering Sea and Gulf of Alaska, and south along the Canadian and U.S. West Coast to Carmel, California (Phillips, 1942 and 1943; Hart, 1973; Bailey *et al.*, 1999). Currents, eddies, and meso-scale physical coastal structures influence the distribution of their early life-history stages. The distributions of later life-history stages appear to be influenced by temperature, light, and prey abundance—variables that may change from year to year in a given area (Bailey, 1989; Swartzman *et al.*, 1994; Olla *et al.*, 1996; Sogard and Olla, 1996a,b; Brodeur *et al.*, 1997). Adult pollock inhabit the continental shelf and slope (Saunders *et al.*, 1989), though various life-history stages are capable of inhabiting nearshore areas, large estuaries (such as Puget Sound), coastal embayments, and open ocean basins, such as the Aleutian Basin of the Bering Sea (Bailey *et al.*, 1999). Adults have been found as deep as 366 m (Hart, 1973), but the vast majority range between 100 and 300 m. Larvae and small juveniles are generally found in the upper water column to depths of 60 m (Garrison and Miller, 1982; Bailey *et al.*, 1999), but have been found in a variety of habitat types, including eelgrass (over sand and mud), and over gravel and cobble substrates (Miller *et al.*, 1976). Pollock are not considered a migratory species, but pre-spawning adults do make relatively short journeys to regional spawning grounds (Muigwa, 1989).

During spawning, pollock apparently pair and spawn after a complex courtship (Sakurai, 1982; Baird and Olla, 1991). Females spawn several batches of eggs over a short period of time (Sakurai, 1982; Hinckley, 1987). Eggs are usually spawned in deep water and remain suspended in the water column at 100-400 m at most spawning localities (Kendall *et al.*, 1994), but can also be spawned in shallower waters in coastal bays. Larvae metamorphose into juveniles at a length of about 18 mm (Bailey, 1989; Grover, 1990; Merati and Brodeur, 1996). In the first year, juveniles grow about 1 mm per day, reaching 80-100 mm in length in 6 months and 120-140 mm by the end of the first year. The growth rates of juvenile and adult walleye pollock in the Georgia Basin appear to be retarded compared with pollock from coastal waters.

In western Gulf of Alaska waters, males have been reported to be sexually mature at age 3 and at a length of 29-32 cm; similarly, 3-year-old females (30-35 cm) were sexually mature (Garrison and Miller, 1982). A study by Saunders *et al.* (1989) reports that male pollock from coastal waters off of British Columbia reached a maximum length of approximately 50 cm by age 7, whereas male pollock from the Strait of Georgia reached a maximum length of 40 cm by age 5. Female pollock from these areas showed a similar trend, but their maximum length was a few cm longer. Fecundity estimates are not available for pollock in Puget Sound (Matthews, 1987), and it is difficult to compare fecundity between pollock from different regions because of the possibility of interannual variability within regions (Hinckley, 1987) and the lack of standardized methodology. However, some comparisons do reflect geographical differences in fecundity between the Bering Sea, Shelikof Strait, and Strait of Georgia (Miller *et al.*,1986).

Consideration as a ''Species'' Under the ESA

To qualify for listing as a threatened or endangered species, the petitioned populations of Puget Sound cod, hake, and pollock must be considered ''species'' under the ESA. Section 3(15) of the ESA defines a ''species'' to include any ''distinct population segment of any species of vertebrate which interbreeds when mature.'' On February 7, 1996, the U.S. Fish and Wildlife Service and NMFS adopted a policy to clarify their interpretation of the phrase ''distinct population segment of any species of vertebrate fish or wildlife'' for the purposes of listing, delisting, and reclassifying species under the ESA (51 FR 4722). The joint policy identifies two elements that must be considered when making DPS determinations: (1) the discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the species or subspecies to which it belongs.

Discreteness. According to the joint policy mentioned above, a population segment may be considered discrete if it satisfies either one of the following conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors; or (2) it is delimited by international governmental boundaries across which there is a significant difference in exploitation control, habitat management, or conservation status.

Significance. The joint policy states that the following are some of the considerations that may be used when determining the significance of a population segment to the taxon to which it belongs: Persistence of the discrete population in an unusual or unique ecological setting for the taxon; evidence that the loss of the discrete population segment would cause a significant gap in the taxon's range; evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere; or evidence that the discrete population segment has marked genetic differences from other populations of the species.

This is the first NMFS status review that attempts to apply the DPS criteria to marine fish species over a broad geographic area of the North Pacific Ocean and, as noted previously, the agency's assessment included gadid stocks from a larger range (i.e., U.S. West Coast, British Columbia and southeast Alaska) than that petitioned. NMFS considered several kinds of information in this status review to attempt to delineate DPSs of Pacific hake, Pacific cod, and walleye pollock in Puget Sound. The first kind of information was habitat characteristics that might indicate that the population segment occupies an unusual or unique ecological setting for the species as a whole. The second kind of information was to consider geographical variability in phenotypic and life-history traits that may reflect local adaptation. Such traits may have an underlying genetic basis, but are often strongly influenced by environmental factors from one locality to another. The third kind of information consisted of mark-recapture studies, which give insight into the physical movement of individuals between areas. The fourth kind of information consisted of traits that are inherited in a predictable way and remain unchanged throughout the life of an individual. Differences among populations in the frequencies of these genetically determined traits may reflect isolation between the populations. Based on the DPS criteria described above and after assessing the best available scientific and commercial information, NMFS has identified DPSs

for each of the three gadid species. The information reviewed and the resultant DPS characterizations are summarized here.

Pacific Hake

There is considerable evidence indicating that Puget Sound and Strait of Georgia stocks (inshore stocks) represent a population that is distinct from coastal populations. Hake are most abundant in the California Current system (Hart, 1973; Bailey, 1982; NOAA, 1990; Love, 1991). Coastal stocks spawn off California in the winter, then mature adults begin moving northward and inshore, following the food supply and Davidson currents (NOAA, 1990). Hake reach as far north as southern British Columbia by fall, then by late fall they begin migrating to southern spawning grounds and more offshore areas (Bailey *et al.*, 1982; Stauffer, 1985; Dorn, 1995; Smith, 1995). The inshore stocks follow similar migration patterns but on a greatly reduced scale (McFarlane and Beamish, 1986; Shaw *et al.*, 1990). Hake that spawn in the Strait of Georgia, in Puget Sound at Port Susan and Dabob Bay, and in Nootka Sound, Barkley Sound, and Sydney Inlet on Vancouver Island are essentially resident stocks, although they may undertake relatively short spawning migrations (Ware and McFarlane, 1995). Puget Sound and Strait of Georgia stocks spend their entire lives in these estuaries (McFarlane and Beamish, 1986; Shaw *et al.*, 1990), indicating that little intermixing occurs between these populations and their coastal counterparts.

In addition, available data show that inshore stocks have substantially slower growth rates than the coastal hake (Alverson and Larkins, 1969; Nelson and Larkins, 1970). Studies also indicate that individuals in the inshore population are substantially smaller than those in the coastal population, further suggesting discreteness between the two populations (Nelson, 1969; Beamish, 1979; Pedersen, 1985). Puget Sound stocks appear to mature at a smaller size than stocks in the Strait of Georgia (Nelson, 1969; Beamish, 1979; Pedersen, 1985), but this difference may have been caused by an intense commercial hake fishery in Puget Sound (Pedersen, 1985).

NMFS also looked at otolith morphometrics to further evaluate population discreteness. Otoliths from coastal hake were compared with those from the Strait of Georgia hake and were found to be more elongate and less concave in section (McFarlane and Beamish, 1985), and an earlier study (Anonymous, 1968) reported that otoliths from Puget Sound hake varied from those found in offshore hake. Although there were no data to allow a comparison between Strait of Georgia and Puget Sound stocks, the available evidence appears to lend further support to the hypothesis that the coastal and inshore populations are distinct.

Parasitological data also suggest that inshore hake stocks do not substantially intermingle with the coastal migratory stocks. A species of protozoan parasite is present only in the coastal stock, indicating that the parasite infected the offshore stocks after the inshore stocks had been isolated in the Georgia Basin (Kabata and Whitaker, 1981 and 1985; McFarlane and Beamish, 1985). In contrast, there is not enough information on parasite incidences to show whether Puget Sound stocks are isolated from Strait of Georgia populations.

Genetic studies indicate that inshore hake stocks are reproductively isolated from the offshore population. Samples collected from fish in or near the spawning ground (Port Susan) and during spawning show that allozyme frequencies differ significantly between the inshore and the offshore populations (Utter, 1969; Utter and Hodgins, 1969 and 1971; Utter *et al.*, 1970). However, there are no similar data to evaluate the degree of reproductive isolation between Puget Sound and Strait of Georgia populations.

NMFS also reviewed available data to determine if hake in Puget Sound and the Strait of Georgia occupied a unique setting within the biological species as a whole. NMFS found that these are the only hake populations to inhabit fjord-like environments. These hake spawn in deep, inshore basins that receive large freshwater inputs, a much different environment from the coastal hake that spawn 60 to 1,655 km offshore (Saunders and McFarlane, 1997).

DPS Determination. NMFS concludes that the hake populations identified by the petitioner do not constitute a ''species'' under the ESA, but are part of a larger ''Georgia Basin Pacific hake DPS'' consisting of inshore resident hake from Puget Sound and the Strait of Georgia. This DPS encompasses at least five geographically discrete spawning aggregates that are found in Dabob Bay and Port Susan in Puget Sound and the south-central Strait of Georgia, Stuart Channel, and Montgomery Bank in the Strait of Georgia.

Although NMFS could not with any certainty identify multiple populations or DPSs of hake within the Georgia Basin, the agency acknowledges the possibility that significant structuring may exist within the proposed DPS and that such structure might be revealed by new information. The agency expects to receive some new information in the near future that will likely resolve many of the uncertainties about the status and relationship of hake stocks within the Georgia Basin DPS. When this information becomes available, and as resources permit, NMFS will re-assess the configuration of this DPS.

Pacific Cod

Cod in Puget Sound have been categorized into three components by the Washington Department of Fish and Wildlife: a North Sound component located in U.S. waters north of Deception Pass (including the San Juan Islands, Strait of Georgia, and Bellingham Bay), a West Sound component (located west of Admiralty Inlet and Whidbey Island, and in the U.S. section of the Strait of Juan de Fuca— including Port Townsend), and a South Sound component (located south of Admiralty Inlet).

To determine whether the petitioned Puget Sound populations are distinct from each other (or from coastal stocks), NMFS analyzed tagging studies to determine the amount of spawning fidelity within the stocks. Although limited tagging data from Puget Sound and Strait of Georgia spawning fish indicated some spawning fidelity, the same studies also showed movement of spawning cod into other known spawning areas, suggesting a larger stock structure. Tagging studies in the eastern Bering Sea and adjacent waters found ''sufficient migration to explain Grant *et al.*'s (1987) findings of genetic homogeneity in cod over broad areas of the North'' (Shimada and Kimura, 1994). These results support the hypothesis that Puget Sound populations are part of a larger population group.

There are very few data on genetically based population structures among Puget Sound cod. Genetic studies indicate that there is reproductive isolation between western (Asia) and eastern (North America including the Bering Sea) Pacific cod, but there is little evidence to indicate isolation among North American stocks (Grant *et al.*, 1987). NMFS concluded that the current genetic information suggests that Puget Sound cod are part of a larger distinct population; however, NMFS does not rule out the possibility that genetic studies of spawning fish may show a more substantial amount of genetic divergence between populations.

NMFS analyzed other available information regarding the reproductive isolation of Puget Sound cod but found no evidence to support a Puget Sound DPS. For example, cod in their southern range are relatively fast growing compared with other populations further north, but this may simply be a function of increased metabolic activity and longer growing seasons in warmer southern waters. Studies also suggest that southern populations are isolated from northern populations because they have higher size-specific fecundities than northern stocks. However, this could be recruitment compensation for southern populations that appear to grow and mature at faster rates and die at a younger age than do cod from northern areas (Ketchen, 1961; Thomson, 1962; Foucher and Tyler, 1990). There was very little parasitological information to show whether the cod population is structured on a finer scale.

NMFS also analyzed habitat characteristics for cod at the population level and determined that cod occupy and spawn in fjord-type marine habitats along the coasts of British Columbia and southeastern Alaska that are ecologically similar to those found in Puget Sound. Thus, the Puget Sound ecological setting is not unique to cod, nor is there geographical variability in the species phenotypic or life-history traits that show local adaptation to fjord-like marine habitats.

DPS Determination. NMFS concludes that the cod populations identified by the petitioner do not constitute a ''species'' under the ESA, but are part of a larger ''Pacific cod DPS'' consisting of cod populations from Puget Sound to at least as far north as Dixon Entrance (near the Queen Charlotte Islands, British Columbia). The agency considered several possible DPS configurations for cod in the northeastern Pacific Ocean in attempting to identify a ''discrete'' and ''significant'' segment of the biological species that incorporates Puget Sound cod populations. While there are very few data at present to identify the exact northern boundary of the DPS, the agency believes that the best available information supports identifying a DPS that is substantially larger than that identified by the petitioner.

Walleye Pollock

NMFS assessed information indicating persistent stock structure throughout the species' range, suggesting that pollock exhibit homing fidelity. However, though stock structure of pollock appears to be persistent, little evidence for a direct parent/offspring linkage exists. The broad area of spawning in the northeast Pacific Ocean and the broad distribution of pelagic eggs and larvae also raise questions about the level of isolation among local spawning populations. In addition, this species is considered to be an opportunistic colonizer, able to take advantage of ecological niches by rapid growth, early maturity, and high fecundity (Bailey *et al.*, 1999). This life history characteristic suggests that pollock are able to inhabit areas where they did not historically exist and to reoccupy areas that were once inhabited.

Pollock show a more or less continuous distribution of spawning sites from Puget Sound through southeast Alaska, and populations within this range spawn from March to early June in the same locations year after year. In contrast, Bering sea stocks spawn throughout a 10-month period from January to October (Bulatov, 1989) and, possibly, into November (Mulligan *et al.*, 1989). Hence, the homogeneity of reproductive traits among stocks from Puget Sound to southeast Alaska suggests a larger population structure than that identified by the petitioner. Unfortunately, there is not enough information from other sources—e.g., tagging, parasite incidence, fecundity, and local population genetics—to determine whether population structures should be defined on a smaller scale. For example, there is little evidence to show genetic differentiation of pollock populations at scales smaller than Asia versus North America. However, a recent microsatellite DNA study has shown statistically significant differences among pollock samples collected in Puget Sound (Port Townsend), the southeastern Bering Sea, and the Gulf of Alaska.

NMFS also analyzed habitat characteristics for pollock at the population level and determined that pollock, like cod, inhabit and spawn in marine habitats along the coasts of British Columbia and southern Alaska that are ecologically similar to those found in Puget Sound. These populations spawn in sea valleys, canyons, or indentations in the outer margin of the continental shelf. They are also known to spawn in fjords and deepwater bays whereas pollock in the Bering Sea and Gulf of Alaska spawn over deep water and the continental shelf. Thus, the Puget Sound ecological setting is not unique to pollock in the eastern North Pacific Ocean.

Studies indicate that pollock densities and abundance decrease markedly east of 140° W longitude (Dorn *et al.*, 1999a), and the pollock management boundary between the Gulf of Alaska and southeast Alaska has been set at this line of longitude. Also, zoogeographic zones of coastal marine fishes and invertebrates further suggest a pollock population structure that extends beyond Puget Sound but no farther north than southeast Alaska. Two zones have been identified within the lower boreal Eastern Pacific with a transition area found in the coastal region from Puget Sound to Sitka, Alaska (Briggs, 1974; Allen and Smith, 1988). In addition, many marine fish species common to the Bering Sea extend southward into the Gulf of Alaska but apparently no further south (Briggs, 1974). NMFS viewed this as further evidence that Puget Sound pollock stocks are likely part of a larger population that extends to southeast Alaska.

DPS Determination. NMFS concludes that the pollock populations identified by the petitioner do not constitute a ''species'' under the ESA, but are part of a larger ''Lower Boreal Eastern Pacific pollock DPS'' consisting of pollock populations from Puget Sound to southeast Alaska (i.e., at or near a boundary of 140° W longitude). The agency considered several possible DPS configurations for pollock in the northeastern Pacific Ocean in attempting to identify a ''discrete'' and ''significant'' segment of the biological species that incorporates Puget Sound populations. Some evidence suggests that multiple stocks exist within this DPS, but the agency believes that the evidence is insufficient to support a geographically smaller DPS.

Status of Hake, Cod, and Pollock DPSs

In considering whether these DPSs should be listed as threatened or endangered under the ESA, NMFS evaluated both qualitative and quantitative information. The qualitative evaluations included recent, published assessments by a variety of sources, while quantitative assessments were based on current and historical abundance information and time series data compiled principally by fisheries agencies in Washington and Canada.

Georgia Basin Pacific Hake DPS

The biomass of hake in Port Susan during the spawning period has declined by 85 percent over the past 15 years, and total abundance has dropped to less than 11 million fish in the year 2000. Size composition and size at maturity for females have also decreased substantially. In contrast, these changes are not evident among hake populations in the Canadian portion of the Strait of Georgia. Saunders and McFarlane (1999)

indicated that a conservative estimate of hake biomass in the Canadian portion of the Strait of Georgia during the 1990s was about 50,000 to 60,000 metric tons (mt) and that biomass was stable during that decade. Biomass estimates for the Port Susan population ranged from 10,648 mt in 1990 to 2,365 mt in 1999. Using these estimates, the Port Susan hake population constituted between 3.8 and 17.6 percent of the combined Port Susan-Strait of Georgia population during the 1990s. Thus, if the Canadian portion of the Strait of Georgia population is maintained, loss of the Port Susan population does not appear to pose a serious extinction risk for the entire Georgia Basin DPS.

There is a great deal of uncertainty regarding the effects of potential risk factors on hake stocks within the Georgia Basin DPS. While there are data on some risk factors, others are not well documented or are only suspected to be factors for decline. Examples of the latter include habitat alterations in Puget Sound, resulting in the potential loss of eelgrass and kelp beds that contribute important hake food sources, and changes in river flow patterns and increased turbidity that could degrade habitat conditions. In contrast, NMFS was able to examine more quantitatively the possible effects of harvest and pinniped predation on hake in the Georgia Basin. Harvest rates by commercial fishers showed a precipitous decline from 8,986 mt in 1982 to 41 mt in 1990, and by 1991 the fishery was closed because of low abundances (W. Palsson, WDFW, pers. comm., 1999). NMFS (1997) estimated that California sea lions consumed 830 mt of Puget Sound hake per year (on average) between 1986 and 1994. This study also estimated that harbor seals consumed 3,209 mt in eastern bays and 1,649 mt in Puget Sound proper in 1993, and Saunders and McFarlane (1999) estimated that harbor seals consumed 11,000 mt of hake in the Strait of Georgia in 1996.

Changes in migratory behavior among the offshore hake populations appear to be related to environmental factors (Dorn, 1975). During warm years, the offshore hake population is found off Canada during the summer feeding season and, during the very warm period of the late 1990s, some hake apparently spawned off Washington and Canada (i.e., much further north than the typical spawning area off California and Mexico) (Dorn *et al.*, 1999a). The Port Susan population has apparently changed more than the Canadian portion of the DPS. It is possible that warm environmental conditions have caused the Port Susan area to be relatively less favorable for hake spawning than the Canadian portion of the Strait of Georgia. Some of the Port Susan population may have migrated to Canadian waters, or perhaps there has been less movement down from Canadian waters now than in previous years.

While some uncertainty remains regarding the geographic extent of this DPS and its overall level of risk, available evidence suggests that millions of hake are present in large parts of the DPS. Therefore, NMFS concludes that the Georgia Basin Pacific hake DPS is not presently in danger of extinction nor is it likely to become so in the foreseeable future. Resources permitting, NMFS will re-assess the status of this DPS when new information becomes available to resolve remaining uncertainties about its stock structure and status.

Pacific Cod DPS

Commercial landings of cod off the U.S. west coast peaked in 1988 at 3,343 mt and have steadily declined since that peak to an estimated 404 mt in 1998. The majority of these landings are reported from Washington State ports (Pacific Fishery Management Council, 1999). The cod stock off the U.S. west coast reportedly is more prone to recruitment failure than the northern stocks, suggesting that the environmental conditions necessary for successful spawning and larval success occur infrequently in this area (Dorn, 1993).

Status assessments for Puget Sound cod populations are based primarily on trends in fishery statistics since 1970 (Palsson, 1990; Palsson *et al.*, 1997). Catches since 1970 have shown alternating periods of good catch years with periods of poor catch years, fluctuating around a 900-mt level between the mid-1970s and mid-1980s. Catches peaked at 1,588 mt in 1980, then declined fairly steadily to low levels--about 13.6 mt in 1994 (Palsson *et al.*, 1997). Due to concerns over the species' decline, commercial fishing for cod was prohibited in Puget Sound south of Admiralty Inlet in 1987. Catch rates north of Admiralty Inlet followed similar declines.

The primary stock indicator for Puget Sound, north of Admiralty Inlet, was the catch rate from the commercial bottom trawl fishery (Palsson *et al.*, 1997). These catch rates generally declined between the 1970s and 1994. However, data since 1994 (W. Palsson, WDFW, pers. comm., 1999) indicate that catch rates in the bottom trawl fishery were somewhat higher than the low in 1994. The primary stock indicator for Puget Sound south of Admiralty Inlet was the catch rate from the recreational fishery, which has also declined fairly steadily since the late 1970s (Palsson, 1997). Recreational catches estimated from the National Marine Recreational Fisheries Statistical Survey in Puget Sound were 2,430 and 920 cod in 1996 and 1997, respectively (WDFW, 1998). Fishery statistics suggest that South Sound cod populations (including Townsend Bay and Agate Passage) have also declined (Palsson *et al.*, 1997), prompting several harvest restrictions after 1989 to protect these stocks.

Bottom trawl surveys have been conducted in Puget Sound intermittently since 1987 (W. Palsson, WDFW, pers. comm., 1999). Estimates for biomass and numbers of fish in 1987 were much higher than in other years, but there has been no apparent trend in the estimated abundance of cod in Puget Sound, both in number and weight, since the 1987 survey. In 1987, 1989, and 1991 when all Puget Sound management regions were surveyed, the estimated cod biomass exceeded 2,500 mt, and estimated cod numbers exceeded 4.7 million fish each year.

In British Columbia waters, four cod stocks are defined for management purposes: Strait of Georgia, west coast Vancouver Island, Queen Charlotte Sound, and Hecate Strait. The latter stock is the only one to be recently evaluated and it appears to be at low levels. Annual trawl fishery yields in Hecate Strait have varied between a high of 8,870 mt in 1987 to a low of 403 mt in 1996 (Canada Department of Fisheries and Oceans (DFO), 1999). The most recent assessment indicates that stock biomass was at historically low levels in 1994-96 (Haist and Fournier, 1998) and that there has been a slight increase in the past 2 years. Recruitment estimates are low, and year-class strength continues to be below-average. Projections for cod in Hecate Strait indicate that the stock will decline in the next 2 years (DFO, 1999). Catch data for the Strait of Georgia during 1970-1991 closely match those available for Puget Sound (Schmitt *et al.*, 1994). In both areas, catches synchronously ranged between 500 and 1,000 mt during the early 1970s, then rose to about 1,500 mt per year during the late 1970s and early 1980s. After a peak in 1981, catches fell to less than 100 mt by 1991. Catches in the Strait of Georgia continued to decline, reaching zero by 1999.

Information on the status of cod in southeast Alaska is limited and Gulf of Alaska assessments do not provide subarea estimates. However, trawl biomass estimates from 1984-1999

indicate that cod abundance in southeast Alaska fluctuated between 4,000 mt in 1984 and 11,000 mt in 1990; 1999 estimates indicate that cod stocks are near the highest level, about 10,000 mt (M. Martin, NMFS, pers. comm., 2000).

There are insufficient data to conduct quantitative analyses of cod extinction risks. However, Palsson (1990) discussed potential factors contributing to the decline of cod in Puget Sound through the 1980s. He concluded that the decrease in stock abundance corresponded to a change to a warmer oceanographic regime, and to an increase in the abundance of pinnipeds and in the fishing effort. Cod populations in Puget Sound have remained low, though fishing effort for cod dropped substantially during the 1980s and was extremely low during the 1990s. In addition to those factors, West (1997) also considered the degradation of nearshore nursery habitats to be a factor that may decrease juvenile cod survival. Small juveniles usually settle into intertidal/subtidal habitats that are commonly associated with sand and eel grass, and such habitats have declined in both extent and quality in Puget Sound.

Studies indicate that cod are not major components of pinniped diets (Schmitt *et al.*, 1995), but pinniped predation risks have not been evaluated quantitatively. Similarly, it is unclear how changes in the abundance of other fish species may affect cod populations in Puget Sound. For example, predation by salmonids is suspected since increased releases of yearling chinook salmon from hatcheries in Puget Sound appear to coincide with changes in cod abundance. Also, West (1997) suggested that declines in the abundance of two primary prey species—herring and pollock—may have contributed to cod declines in Puget Sound. The effects that contaminants or toxins from phytoplankton blooms (''red tides'') may have on cod abundance have also not been evaluated.

As noted previously, NMFS could not identify a definitive northern boundary for the Pacific cod DPS, but believes that it extends to at least Dixon Entrance. Hence, the agency's risk assessment included a greater number of cod stocks than those addressed in the petition. While declines are evident throughout the DPS' range, it is unclear whether they are attributable to natural phenomena that may be common over the species' history. Cod in this DPS are at the southern extreme of the species' range, and their current low abundance may represent a temporary range shrinkage in response to unfavorable environmental conditions. Still, it is apparent that cod persist throughout the range of this DPS and that their abundance, particularly in the northern portions of the DPS—does not suggest a detectable risk of endangerment. Therefore, NMFS concludes that the Pacific cod DPS is not presently in danger of extinction nor is it likely to become so in the foreseeable future.

Lower Boreal Eastern Pacific Walleye Pollock DPS

Walleye pollock in southern Puget Sound are on the extreme southern end of the species distribution, yet a sport fishery near Tacoma once made them the most common bottomfish harvested in Puget Sound recreational fisheries. Catches in southern Puget Sound exceeded 181 mt per year from 1977 to 1986, but catches subsequently dropped, causing the fishery to collapse (Palsson *et al.*, 1997). Due to concerns about the status of the population, the daily bag limit for pollock in the recreational fishery in Puget Sound was reduced from 15 fish to 5 fish in 1992, and from 5 fish per day to zero in 1997. Results of the Marine Recreational Fisheries Statistical Survey indicate no pollock were reportedly caught in recreational fisheries in Puget Sound during 1996 and 1997 (WDFW, 1998). North of Admiralty Inlet, trawl catch rates between 1970 and 1994 were generally low, and catches were usually less than 50 mt, except during the peak 1978-1981 period when catches usually exceeded 500 mt. Palsson *et al.* (1997) reported that it is unclear whether the stock is depressed, not targeted by the fishery, or was simply unavailable to the fishery during these years.

Bottom trawl surveys have been conducted in Puget Sound intermittently since 1987 (W. Palsson, WDFW, pers. comm., 1999). Estimates for biomass and numbers of fish in 1987 were much higher than in other years and the average sizes of pollock taken were usually smaller. This may not represent a change in fish abundance, but may be due to other factors. Otherwise, there was no apparent trend, except that pollock abundance in central Puget Sound in 1995 was much larger than in other years. In 1987, 1989, and 1991 when all Puget Sound management regions were surveyed, the estimated pollock biomass exceeded 975 mt, and abundance estimates exceeded 7 million fish each year.

In British Columbia waters, discrete pollock stocks are present in Dixon Entrance/Hecate Strait, Queen Charlotte Sound, west coast Vancouver Island, and the Strait of Georgia. Pollock in Dixon Entrance/Hecate Strait are thought to be part of a stock that includes the southern waters of southeast Alaska, but the relationship with large Gulf of Alaska stocks is unclear. It is possible that high abundance in the Gulf of Alaska results in movement into northern Canadian waters (Saunders and Andrews, 1998). During 1970-1991, when catch data were available for Puget Sound and the Strait of Georgia, catch patterns in the latter area closely matched those in Puget Sound until the late 1980s, when catch patterns began diverging (Schmitt *et al.*, 1994).

A formal stock assessment for the southeast Alaska portion of the Gulf of Alaska has not been conducted, and historically there has been very little directed fishing for pollock in southeast Alaska. However, commercial trawling is currently banned east of 140° W, and bottom trawl surveys indicated a substantial reduction in pollock abundance in this region (Dorn *et al.*, 1999b). Dorn *et al.* (1999b) noted that bottom trawl survey data from southeast Alaska are highly variable, partially as a result of differences in survey coverage among years. The 1996 and 1999 surveys had the most complete coverage of shallow strata in southeast Alaska and indicated that the stock size of pollock was about 30,000 - 50,000 mt (Dorn *et al.* 1999b).

As noted previously, NMFS believes that this pollock DPS consists of populations from Puget Sound to southeast Alaska, at or near a boundary of 140° W longitude. As with the Pacific cod DPS, pollock populations in this DPS occupy the southern extreme of the species' range and the agency's risk assessment included a greater number of stocks than those addressed in the petition. Data were insufficient to quantitatively assess the extinction risks for pollock, and the same list of potential factors affecting cod abundance were considered as potential risk factors for pollock. Unlike cod, British Columbia pollock populations do not appear to be declining or at low levels, although information on the status of these stocks is very limited. Consequently, pollock stock declines apparent in Puget Sound do not appear to be widespread throughout the DPS. Therefore, NMFS concludes that the Lower Boreal Eastern Pacific Walleye Pollock DPS is not presently in danger of extinction nor is it likely to become so in the foreseeable future.

Determination

The ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range, and a threatened

species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(b)(1) of the ESA requires that the listing determination be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, that are being made to protect such species.

After reviewing the best available scientific and commercial information for these three gadids, NMFS concludes that none of the petitioned populations in Puget Sound by themselves constitute ''species'' under the ESA. The agency determines that these populations represent the southernmost stocks of larger DPSs that qualify as species under the ESA: (1) a Georgia Basin Pacific hake DPS; (2) a Pacific cod DPS that includes stocks at least as far north as Dixon Entrance; and (3) a Lower Boreal Eastern Pacific walleye pollock DPS. After assessing the risk of extinction faced by each DPS, NMFS further determines that none of the DPSs warrant listing as threatened or endangered at this time. NMFS acknowledges that the DPS and risk assessments relied heavily upon the professional judgement of agency scientists since robust data sets were generally not available for any of the species. In particular, the agency believes that remaining uncertainties regarding the status and relationship of hake stocks in the Georgia Basin DPS warrant placing this DPS on the agency's list of candidate species. In the event that new information becomes available to resolve these uncertainties and as agency resources permit, NMFS will conduct a thorough re-evaluation of this DPS.

References

A list of references is available upon request (see **ADDRESSES**).

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

Dated: November 17, 2000.

William T. Hogarth

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–30028 Filed 11–22–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 110900C]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Grouper; Overfished Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Determination of overfished fishery.

SUMMARY: NMFS has determined that the Gulf of Mexico red grouper fishery is overfished and has notified the Gulf of Mexico Fishery Management Council (Council) of related responsibilities under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective November 24, 2000.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone 727-570-5305, fax 727-570-5583, e-mail Phil.Steele@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico reef fish fishery is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council and approved and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The FMP is implemented by regulations at 50 CFR part 622.

Determination of Overfished Fishery

NMFS' determination of the status of a stock relative to overfishing and an overfished condition is based on both the removal of fish from the stock through fishing (the exploitation rate) and the current stock size. When the exploitation rate jeopardizes the capacity of a stock to produce its maximum sustainable yield (MSY) on a continuing basis, overfishing is occurring. The exploitation rate (i.e., rate of removal of fish from a population by fishing) is usually expressed in terms of an instantaneous fishing mortality rate (F).

Another important factor for classifying the status of a resource is the current stock level. If a stock's biomass falls below its minimum stock size threshold, the capacity of the stock to produce MSY on a continuing basis is jeopardized and the stock is said to be in an overfished condition.

Commercial red grouper landings in the Gulf of Mexico are down approximately 55 percent from the high that the U.S. fishery reached in 1982. Recreational landings in 1997 were the lowest since 1981. At one of its meetings in 1999, the Council's Reef Fish Stock Assessment Panel (RFSAP) reviewed the 1999 scientific assessment of the red grouper stock conducted by the NMFS Southeast Fisheries Science Center (SEFSC). The RFSAP concurred with the assessment's findings that the stock is overfished and is undergoing overfishing. Subsequent SEFSC analyses of the stock confirm that it is overfished and undergoing overfishing as discussed below.

The stock assessment conducted by the RFSAP used two different scientific models (a surplus-production model and the Age Structured Assessment Program (ASAP)) to evaluate the current condition of the red grouper stock. Both models indicated that the red grouper stock is overfished and that overfishing is occurring. The surplus production model results showed that in 1997 the red grouper biomass was approximately 20 percent of the biomass expected at MSY, and that F in 1997 was approximately two times that needed to produce MSY. Absolute estimates of MSY were approximately 11 to 12 million lb (5.0 to 5.5 million kg). The ASAP model showed that the best estimate for MSY was 8.4 million lb (3.8 million kg), which is achieved at an F of 0.27 per year. The spawning stock biomass at MSY was estimated to be 563 million lb (255 million kg). The estimated F and spawning stock biomass in 1997 was 0.88 per year and 144 million lb (65 million kg), respectively. Thus, the 1997 estimated stock biomass was 26 percent of its estimated biomass at MSY.

Both models showed an increase in F in recent years. With decreased catch, this implies a reduced abundance of red grouper. Estimated F has doubled since the late 1970's and has increased from an average of 0.3 in 1986 to 0.5 in 1997. Estimates of spawning stock biomass and recruitment have declined since at least 1985. In all model simulations, the red grouper stock is overfished, and overfishing is still occurring.

At the RFSAP's August 2000 meeting, four additional sensitivity analyses of red grouper stock status were requested. The results of these analyses, conducted by the SEFSC, again confirmed the overfished status of the Gulf of Mexico red grouper stock.

Section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act requires that within 1 year of being notified of the

identification of a stock as being overfished, the affected Regional Fishery Management Council must develop measures to end overfishing and rebuild the stock. On October 13, 2000, the Acting Regional Administrator, NMFS Southeast Region, notified the Council of the overfished status of the Gulf of Mexico red grouper and requested that the Council take appropriate action. The letter to the Council reads as follows:

October 13, 2000

Ms. Kay Williams, Chairperson

Gulf of Mexico Fishery Management Council

3018 U.S. Highway 301, Suite 1000

Tampa, Florida 33619

Dear Kay,

This is to inform the Council that, based upon the best available scientific information, the National Marine Fisheries Service (NMFS) has determined that the Gulf of Mexico red grouper stock is overfished and undergoing overfishing. This determination is based on the 1999 red grouper stock assessment and subsequent analyses by the Southeast Fisheries Science Center completed at the request of the Reef Fish Stock Assessment Panel (enclosed). These most recent analyses indicate that the stock is overfished and undergoing overfishing. I do not anticipate that any additional re-analysis of these data will alter this determination. Furthermore, the recent peer review of the 1999 red grouper assessment by the Center for Independent Experts concluded that the assessment contained sufficient information upon which to base management decisions. The conclusions of this peer review have already been provided to the Council and the Reef Fish Stock Assessment Panel (RFSAP).

The reference points for overfishing and overfished currently in the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico are based only on fishing mortality rates expressed as spawning potential ratios (overfishing: 30% static SPR; overfished: 20% transitional SPR). These reference points are not fully compliant with the national standard guidelines because they do not include a component based on stock size and, thus, are not an adequate basis for determination of stock status. The national guidelines require specification of a minimum stock size threshold (MSST) and a maximum fishing mortality threshold (MFMT). Each of the assessment scenarios provided to the Council includes estimates of these status determination criteria as well as an estimate of MSY.

The Magnuson-Stevens Fishery Conservation and Management Act requires that the Council propose management measures to initiate rebuilding of the stock within one year of the determination that the stock is overfished. The 1999 stock assessment as well as the enclosed analyses provide the Council and the RFSAP with a range of assessment scenarios, including those recommended by industry consultants. The RFSAP will meet again in December to provide the Council with further guidance regarding the extent of reduction in fishing mortality required to end overfishing and rebuild the stock. The extent of the required reduction is dependent on the assessment scenario selected and the duration of the rebuilding period. As the Council addresses overfishing and rebuilding of the red grouper stock, the Council must develop a plan to rebuild the stock to the biomass at MSY and must select specific estimates of MSY, OY, MFMT, and MSST as part of this plan. The information necessary to complete this task is included in the 1999 assessment and the enclosed material requested by the RFSAP.

I look forward to working with the Council to develop a plan for rebuilding the red grouper stock.

Sincerely Yours,

Joseph E. Powers, PhD.

Acting Regional Administrator

Dated: November 16, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–30029 Filed 11–22–00; 8:45 am]

BILLING CODE: 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 991228355-0140-02; I.D. 110700C]

Fisheries of the Northeastern United States; Maine Mahogany Quahog Fishery; Commercial Quota Harvested

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota harvest; closure.

SUMMARY: NMFS announces that the Maine mahogany quahog commercial quota has been harvested. Vessels issued a commercial Federal fisheries permit for the Maine mahogany quahog fishery may not land Maine mahogany quahogs in the State of Maine for the remainder of calendar year 2000, unless fishing for an individual allocation of ocean quahogs under specific regulations. Regulations governing the Maine mahogany quahog fishery require publication of this notification to advise the public that the quota has been harvested and to notify vessel and dealer permit holders that no commercial quota is available for landing Maine mahogany quahogs.

DATES: Effective from 0001 hours, November 25, 2000, through 2400 hours, December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Allison Ferreira, Fishery Management Specialist, (978)281-9103.

SUPPLEMENTARY INFORMATION: Regulations governing the Maine mahogany fishery are found at 50 CFR part 648. The annual quota of Maine Mahogany quahogs is 100,000 Maine bushels (35,150 hL) for 2000.

Section 648.76(b)(1)(iv) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the Maine mahogany quahog quota based on dealer reports and other available information and determine when the quota will be harvested. The Regional Administrator is further required to publish notification in the Federal Register advising the public and notifying Federal vessel and dealer permit holders that, effective on a specific date, the commercial quota for Maine mahogany quahogs has been harvested and no commercial quota is available for landing Maine mahogany quahogs for the remainder of the year. The Regional Administrator has determined, based upon dealer reports and other available information, that the commercial Maine mahogany quahog quota for 2000 has been harvested.

Therefore, effective 0001 hours, November 25, 2000, further landings of Maine mahogany quahogs in Maine by vessels issued a Maine mahogany quahog permit and not fishing for an individual allocation of ocean quahogs under § 648.70 are prohibited for the remainder of the 2000 calendar year. Effective 0001 hours, November 25, 2000, federally permitted dealers are also advised that they may not purchase Maine mahogany quahogs landed in Maine for the remainder of the calendar year from federally permitted vessels, unless they are fishing for an individual allocation of ocean quahogs.

The Maine mahogany quahog zone as defined in § 648.73(d), is closed to fishing for ocean quahogs except in those areas that are tested by the State of Maine and deemed to be within the requirements of the National Shellfish Sanitation Program and adopted by the Interstate Shellfish Sanitation Conference as acceptable limits for the toxin responsible for paralytic shellfish poisoning. Harvesting of ocean quahogs is allowed only in the areas and during the time periods specified by the Maine Department of Marine Resources as being safe for human consumption.

The regulations at § 648.76(a)(2) specify that vessels fishing under an ocean quahog individual allocation, regardless of whether they possess a Maine mahogany quahog permit, may land their catch in Maine or, consistent with applicable state law, in any other state that utilizes food safety-based procedures consistent with those used by the State of Maine for such purpose,

and must comply with the requirements in §§ 648.70 and 648.75. All mahogany quahogs landed by vessels fishing in the Maine mahogany quahog zone for an individual allocation of quahogs under § 648.70 are counted against the ocean quahog allocation for which the vessel is fishing.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 17, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–30025 Filed 11–22–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 000501119-01; I.D. 102300C]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Closures and Inseason Adjustments from House Rock, OR to Humboldt South Jetty, CA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closures and inseason adjustments; request for comments.

SUMMARY: NMFS announces that the commercial fishery in the area from House Rock, OR to Humboldt South Jetty, CA, reached its 1,000-chinook guideline for the sub-area allocation off Oregon. The fishery in the sub-area from House Rock, OR to the Oregon-California border was closed at midnight, September 6, 2000, for the duration of the fishery. In the sub-area off California, from Oregon-California border to the Humboldt South Jetty, the fishery remains open. Oregon State regulations will allow vessels with fish on board caught in the open area off California to seek temporary mooring in Brookings, OR, prior to landing in California only if such vessels first notify the Chetco River Coast Guard Station. The Northwest Regional Administrator, NMFS (Regional Administrator), determined that the commercial guideline of salmon for this sub-area had been reached. These actions were necessary to conform to the 2000 management measures and are intended to ensure conservation of chinook salmon.

DATES: Closure effective 2359 hours local time (l.t.), September 6, 2000, for the area from House Rock, OR to the Oregon-California border. Comments will be accepted through December 11, 2000.

ADDRESSES: Comments on these actions must be mailed to Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115-0070; or faxed to 206-526-6376; or Rebecca Lent, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4132; or faxed to 562-980-4018. Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: William Robinson, 206-526-6140, Northwest Region, NMFS or Svein Fougner, 562-980-4030 Southwest Region, NMFS.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR 660.409(a)(1) state that, when a quota for any salmon species in any portion of the fishery management area is projected by the Regional Administrator to be reached on or by a certain date, NMFS will, by notification issued under 50 CFR 660.411(a)(2), close the fishery for all salmon species in the portion of the fishery management area to which the quota applies, as of the date the quota is projected to be reached.

In the 2000 management measures for ocean salmon fisheries (65 FR 26138, May 5, 2000), NMFS announced that the commercial fishery for all salmon except coho in the area from House Rock, OR to Humboldt South Jetty, CA would open September 1 through the earlier of September 30 or until the 7,000-chinook quota was reached. The 7,000 chinook quota included a harvest guideline limiting landings at the port of Brookings, OR, to no more than 1,000 chinook. If this guideline was reached prior to the overall quota, the fishery would be closed north of the Oregon-California border. When the fishery is closed north of the Oregon-California border and open to the south, Oregon regulations provide that vessels with fish on board caught in the open area off California may seek temporary mooring in Brookings, OR, prior to landing in California only if such vessels first notify the Chetco River Coast Guard Station via VHF channel 22A between the hours of 0500 and 2200 l.t. and provide the vessel name, number of fish on board, and estimated time of arrival. The Regional Administrator consulted with representatives of the Pacific Fishery Management Council, the California Department of Fish and Game, and the Oregon Department of Fish and Wildlife (ODFW) on September 6, 2000. The ODFW reported that the 1,000 chinook guideline for the sub-area allocation off OR (for the area from House Rock OR to Humboldt South Jetty, CA) would be reached by the end of the day on September 6, 2000, at the current catch and landing rates.

The Northwest Regional Administrator determined that the best available information on September 6, 2000, indicated that the catch and effort data and projections supported closure of the commercial fishery in the sub-area from House Rock, OR to the Oregon-California border at midnight, September 6, 2000. The sub-area off California from the Oregon-California border to the Humboldt South Jetty, California order would remain open. Oregon State regulations would allow vessels with fish on board caught in the open area off California to seek temporary mooring in Brookings, OR prior to landing in California only if such vessels first notify the Chetco River Coast Guard Station.

The States of California and Oregon will manage this fishery in state waters adjacent to these areas of the exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishermen of this action was given by telephone hotline number 206-526-6667 and 800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

Classification

Because of the need for immediate action to stop a fishery upon achievement of a quota, NMFS has determined that good cause exists for this notification to be issued without affording a prior opportunity for public comment because such notification would be unnecessary, impracticable, and contrary to the public the immediate interest. Moreover, because of need to stop the fishery upon achievement of a quota, the Assistant Administrator for Fisheries, NOAA finds, for good cause, under 5 U.S.C. 553(d)(3), that delaying the effectiveness of this rule for 30 days is impracticable and contrary to the public interest.

These actions do not apply to other fisheries that may be operating in other areas.

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 17, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–30027 Filed 11–22–00; 8:45 am]

BILLING CODE: 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 000501119-01; I.D. 102300B]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Closures and Inseason Adjustments from the U.S.-Canada Border to the Oregon-California Border

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closures and inseason adjustments; request for comments.

SUMMARY: NMFS announces closures of several recreational and commercial fisheries from the Oregon-California border to the U.S.-Canada border. The Northwest Regional Administrator, NMFS (Regional Administrator), determined that the recreational and commercial quotas of salmon for these areas had been reached. These actions were necessary to conform to the 2000 management measures and are intended to ensure conservation of coho and chinook salmon.

DATES: Closures effective: 2359 hours local time (l.t.), August 17, 2000, for the area from U.S.-Canada Border to Cape Alava; 2359 hours l.t., August 12, 2000, for the area from Cape Alava to Queets River, WA; 2359 hours l.t., August 10, 2000, for the area from Queets River to Leadbetter Point, WA; 2359 hours l.t., August 13, 2000, for the area from Leadbetter Point, WA, to Cape Falcon, OR; and 2359 hours l.t., August 11, 2000, for the area from Sisters Rocks, OR, to the Oregon-California border. See **SUPPLEMENTARY INFORMATION** for specific closure areas and times. Comments will be accepted through December 11, 2000.

ADDRESSES: Comments on these actions must be mailed to Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115-0070; or faxed to 206-526-6376; or Rebecca Lent, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4132; or faxed to 562-980-4018. Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: William Robinson, 206-526-6140, Northwest Region, NMFS; or Svein Fougner, 562-980-4030 Southwest Region, NMFS.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR 660.409(a)(1) state that, when a quota for any salmon species in any portion of the fishery management area is projected by the Regional Administrator to be reached on or by a certain date, NMFS will, by notification issued under 50 CFR 660.411(a)(2), close the fishery for all salmon species in the portion of the fishery management area to which the quota applies, as of the date the quota is projected to be reached.

In the 2000 management measures for ocean salmon fisheries (65 FR 26138, May 5, 2000), NMFS announced the following recreational fisheries north of Cape Falcon, Oregon: U.S.-Canada Border to Cape Alava (Neah Bay Area) opened July 3 through earlier of September 30 or subarea quota of 6,900 marked coho, with a guideline of 500 chinook; Cape Alava to Queets River (La Push Area) opened July 3 through earlier of September 30 or subarea quota of 1,700 marked coho, with a guideline of 300 chinook; Queets River to Leadbetter Pt. (Westport Area) opened July 3 through earlier of September 30 or subarea quota of 28,900 marked coho, with a guideline of 7,400 chinook, and closed through August 10 inside the area (''Grays Harbor bubble area'') defined by a line drawn from the Westport lighthouse (46°53.3' N. lat., 124°07.01' W. long.) to Buoy #2 (46°52.7' N. lat., 124°12.7' W. long.) to Buoy #3 (46°55.0' N. lat., 124°14.8' W. long.) to the Grays Harbor north jetty (46°55.6' N. lat., 124°10.85' W. long.); Leadbetter Pt. to Cape Falcon (Columbia River Area) opened July 10 through earlier of September 30 or subarea quota of 37,500 marked coho, with a guideline of 4,300 chinook. NMFS also announced the commercial fishery off the southern Oregon coast from Sisters Rocks to Oregon-California Border opened August 1 through earlier of August 31 or 1,300 chinook quota.

The Regional Administrator consulted with representatives of the Pacific Fishery Management Council, the Washington Department of Fish and Wildlife and the Oregon Department of Fish and Wildlife on August 4, 7, 9, and 16, 2000.

The Northwest Regional Administrator, NMFS (Regional Administrator), determined that the best available information on August 9, 2000, indicated that the catch and effort data and projections supported closure of 3 of the 4 recreational fisheries and the one commercial fishery. To meet preseason management objectives such as quotas and season duration, 4,000 coho from the commercial fishery from Queets River, WA, to Cape Falcon, OR were traded for 1,000 chinook from the overall recreational allocation north of Cape Falcon; and 250 coho from the U.S.-Canada Border to Cape Alava subarea recreational quota were transferred to the Cape Alava to Queets River, WA area. Of the 4,000 coho that were traded, 3,400 coho were added to the Columbia River Area quota and 600 coho to the Westport Area quota. The troll fishery received 1,000 chinook from the recreational fisheries in the Columbia River and Westport areas, reflected in the revised Columbia River Area chinook guideline.

The recreational fishery in the area from Cape Alava to Queets River, WA closed at 2359 hours l.t., August 12, 2000, with an estimated catch of 182 chinook on a guideline of 300 and 1,932 coho on a revised quota of 1,950; the recreational fishery in the area from Queets River to Leadbetter Point, WA, closed at 2359 hours l.t., August 10, 2000, with an estimated catch of 6,349 chinook on a guideline of 7,400 and 28,841 coho on a revised quota of 29,500 (Except the Grays Harbor bubble area was open for 1 day, August 13, 2000); and the recreational fishery in the area from Leadbetter Point, WA, to Cape Falcon, OR, closed at 2359 hours l.t., August 13, 2000, with an estimated catch of 2,315 chinook on a revised guideline of 3,300 and 39,668 coho on a revised quota of 40,900. The commercial fishery in the area from Sisters Rocks, OR, to the Oregon-California border closed at 2359 hours l.t., August 11, 2000, with an estimated catch of 930 chinook on a quota of 1,300.

The best available information on August 16, 2000, supported closure of the recreational fishery in the area from U.S.-Canada Border to Cape Alava which was closed at 2359 hours l.t.,

August 17, 2000, with an estimated catch of 467 chinook on a guideline of 500 and 7,265 coho on a revised quota of 6,650.

The States of Washington and Oregon will manage coho and chinook fisheries in state waters adjacent to these areas of the exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures of 50 CFR 660.411, actual notices to fishermen of these actions were given by telephone hotline number 206-526-6667 and 800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz prior to these inseason adjustments.

Classification

Because of the need for immediate action to stop a fishery upon achievement of a quota, NMFS has determined that good cause exists for this notification to be issued without affording a prior opportunity for public comment because such notification would be unnecessary, impracticable, and contrary to the public interest. Moreover, because of the immediate need to stop the fishery upon achievement of a quota, the Assistant Administrator for Fisheries, NOAA finds, for good cause, under 5 U.S.C. 553(d)(3), that delaying the effectiveness of this rule for 30 days is impracticable and contrary to public interest. These actions do not apply to other fisheries that may be operating in other areas.

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 17, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–30026 Filed 11–22–00; 8:45 am]

BILLING CODE: 3510–22–S

Proposed Rules

Federal Register
Vol. 65, No. 227
Friday, November 24, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 721

Federal Credit Union Incidental Powers Activities

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The National Credit Union Administration (NCUA) is proposing a revised regulation to categorize activities deemed to be within the incidental powers of a federal credit union (FCU). The proposed rule also describes how interested parties may request a legal opinion on whether an activity is within an FCU's incidental powers or apply to add new activities or categories to the regulation. The proposed rule also clarifies the conflict of interest provisions applicable to activities authorized by this regulation.

DATES: Comments must be received on or before February 22, 2001.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. You may also fax comments to (703) 518-6319 or e-mail comments to *boardmail@ncua.gov.* Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Senior Staff Attorney, or Chrisanthy J. Loizos, Staff Attorney, Division of Operations, Office of General Counsel at the address above or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

On November 18, 1999, the NCUA Board (the Board) issued a request for comments in an Advance Notice of Proposed Rulemaking (ANPR) on whether the Board should restructure part 721 of NCUA's Regulations and adopt provisions regarding incidental powers within the regulation. 64 FR 66413 (November 26, 1999). At the time, the Board envisioned that it would create four sections within Part 721 and expand its test for analyzing the incidental powers of FCUs.

In the first section, the Board considered listing activities or categories of activities deemed to be within the incidental powers of FCUs. In addition to the approved activities, the Board suggested an application process for FCUs to request additional activities. Further, the Board requested that commenters offer standards for analyzing the permissibility of an activity as an incidental power, as well as examples or categories of incidental activities.

The Board suggested that the second section authorize group purchasing activities and limit compensation to the credit union's cost amount, similar to the current regulation. The Board also sought comment on the compensation limit to an FCU's cost amount, the appropriateness of a limit, and whether reasonable value be added to the credit union's cost when applying the compensation limit.

The third section considered by the Board tracked the current regulation regarding the sale of insurance products directly related to a loan or share account. Similarly, the fourth section regarding conflicts of interest tracked the current provision in part 721, but the Board sought comment on clarifying the applicability of this provision.

B. Comments

The Board received twenty-three comment letters. Comments were received from ten natural person credit unions, one corporate credit union, four national credit union trade associations, six state credit union leagues, one insurance company and one attorney. In general, the commenters supported updating the regulation. Most commenters did not specifically address the restructuring of the regulation but rather responded by commenting individually on each of the proposed four sections.

Seven commenters opposed the regulation's structure as proposed. One commenter suggested the Board dispense with part 721 and adopt a broad policy addressing incidental powers and group purchasing. Similarly, another commenter, concerned that a single regulation may be unable to address all incidental powers, opposed defining NCUA's analysis of incidental powers in a regulation. After further consideration of the legal justifications and safety and soundness issues, as well as a review of the comment letters, the Board has decided to structure the regulation differently than presented in the ANPR. Furthermore, other laws and regulations have since supplanted some of the issues raised for comment in the ANPR. For example, the issue of mailing lists is now addressed in NCUA's new consumer privacy regulation. 12 CFR part 716.

The NCUA Board is now proposing seven sections instead of the original four sections. The Board's analysis of incidental powers is addressed in the text of the proposed regulation. The Board believes that the regulation should contain the Board's analysis so FCUs will know the criteria the Board will apply to petitions for new incidental powers.

In the ANPR, the Board addressed case law regarding incidental powers and how other financial institution regulatory agencies have addressed the issue. The Board requested comment on the standards it should consider when analyzing the permissibility of an activity under an FCU's incidental powers. The commenters overwhelmingly supported an expansion of an FCU's incidental powers. Most commenters asked that the Board adopt an analysis similar to the OCC's and advocated broad standards.

The Board requested comment on establishing a section with a list or categories of activities NCUA has approved as incidental powers for FCUs. Of the twenty-three commenters, eight supported a list of approved activities deemed to be within an FCU's incidental powers. Those in support of a list agreed with NCUA's proposal that the list would be illustrative of permitted activities and not exclusive.

Seven opposed a list of activities. Of that group, some objected to having incidental powers addressed in a regulation. The remaining commenters believed policy guidelines or regulatory commentary, in lieu of a list, would provide NCUA more flexibility. The Board believes that the use of activity categories, rather than a narrow list of permissible activities, allows for adequate illustration of the areas determined to be within an FCU's incidental powers. The Board chose not to use guidelines and commentary because they lack certainty and would not adequately illustrate what is permissible.

The Board asked for examples or categories of activities within an FCU's incidental powers. Several commenters suggested that FCUs have the incidental authority to offer stored value products or alternate media, such as gift certificates, transportation tickets, concert tickets, stamps, and phone cards. Commenters also suggested that FCUs should be able to sell advertising space on their web sites, ATM receipts, and statements. Many of the commenters' suggestions have been incorporated into the proposed regulation.

Many commenters commented on the significance of technology in the financial services industry. They suggested that FCUs should be authorized under their incidental powers to act as Internet service portals and Internet service providers, and to otherwise provide electronic financial services. Commenters also requested the ability to sell data processing services and to certify digital signatures or identifications. Again, many of these suggestions have been incorporated into the proposed regulation.

In response to the expanded powers granted to banks as a result of the Gramm-Leach-Bliley Act, many commenters discussed various types of advisory services, such as brokerage services for buying and selling insurance and investments, financial counseling, investment counseling, consumer credit counseling, estate planning, financial planning, tax counseling and preparation, and other financial or legal counseling for managing financial needs. Credit unions were not granted expanded powers as a result of the Gramm-Leach-Bliley Act but some of the commenters' suggestions traditionally have been performed by credit unions and are included in the proposed rule.

In the ANPR, the Board asked for comment on group purchasing activities. NCUA's longstanding position has been that FCUs could offer group purchasing opportunities as a goodwill service to members. Accordingly, FCU compensation for offering group purchasing opportunities has been limited to an FCU's cost amount. One commenter suggested that the regulation should clearly distinguish group purchasing and incidental powers as two separate powers. Five commenters argued that group purchasing should be considered an activity within an FCU's incidental powers. The Board has reexamined the concept of group purchasing and has established an incidental powers activity category entitled finder activities.

The Board asked for comment on defining ''insurance products'' to clarify the types of products an FCU may sell to its members without compensation limits. One commenter suggested that, if the Board explicitly permits FCUs to generate income from all incidental activities, a definition would be unnecessary. In the alternative, this commenter defined ''insurance products'' as a product, offered by a third party, which protects the credit union or borrower against loss incurred in connection with the borrower's ability or willingness to repay an extension of credit or the credit union's level of security in the event of the borrower's default. Two commenters raised the issue of state insurance laws. Of the two, one asked that a caveat within the regulation direct FCUs to state laws governing the splitting of commissions. The second commenter stated that a definition of ''insurance products'' may fail to meet the same standards under various state laws and prove confusing to FCUs, resulting in violations of state insurance laws.

Currently, FCUs may provide a convenient service by offering members insurance products unrelated to an extension of credit or the opening or maintenance of a share, share draft or share certificate account. FCUs are limited to reimbursement not exceeding the greater of a nominal dollar amount or cost amount. 12 CFR 721.2(b)(2). The Board requested comment on the compensation limit of the credit union's cost amount, whether any limit is appropriate, and whether reasonable value should be added to the credit union's cost when applying the compensatory limit. NCUA also requested comment on how the term ''reasonable value'' should be defined.

One commenter offered definitions for both phrases. ''Cost amount'' was defined to include the direct cost to the FCU and reasonable related administrative costs. The commenter also offered a definition of ''reasonable value'' as the greater of the FCU's actual cost or the fair market value for the services rendered in the FCU's geographic area. Five commenters stated that FCUs should be able to earn income in excess of their cost when selling insurance products to members that are not directly related to share accounts or loans.

Having considered the range of comments in response to the ANPR on group purchasing and the sale of insurance products, the Board proposes to incorporate the concept of group purchasing in regard to insurance products into the category of finder activities.

Finder activities are those in which an FCU introduces its members to third party vendors, a traditional role for financial service providers and credit unions. As a finder, the FCU assists its members in accessing products while being in the position to negotiate membership-wide rates or benefits with vendors. An FCU may act as a finder on a variety of products, including insurance products. Therefore, the Board does not need to distinguish the offering of insurance products from other types of finder activities.

The Board sought comment on whether compensation for incidental powers activities should be unlimited. Seven commenters believed that compensation should be unlimited. Some of these commenters believed that clarification was necessary. Some stated that only an FCU's board of directors should make the business decision to limit compensation derived from these activities.

Similar comments were submitted in response to the Board's query regarding the current compensation restriction of an FCU's cost amount when offering group purchasing opportunities. Eighteen commenters specifically stated that FCUs should engage in group purchasing activities without restrictions on compensation to the FCU. The commenters offered several reasons for lifting the compensation limitations. Many of these commenters believe that the amount of compensation should be a management decision. One commenter noted the laws of eight states do not restrict state-chartered credit union income for group purchasing activities. However, as the Board notes below, income from these activities is subject to tax for state-chartered credit unions.

One commenter expressed concern that income earned by FCUs under this section may be considered unrelated business income for tax purposes. The FCU Act expressly provides that FCUs are exempt from all income taxes. 12

U.S.C. 1768. Furthermore, FCUs are tax exempt organizations under 26 U.S.C. 501(c)(1) and, therefore, exempt from taxes on unrelated business income under 26 U.S.C. 511(a)(2). By finding that particular activities are within the incidental powers of FCUs, the Board, as regulator of these institutions, determines whether activities are necessary or requisite for FCUs to carry on their business effectively under the FCU Act. Under this analysis, FCUs engaging in approved incidental activities are conducting business substantially related to their business as nonprofit financial institutions.

The Board sought comment on a process for FCUs to seek approval to add activities to the regulation. The commenters offered varied responses to this request. One commenter supported an approval procedure within the regulation for activities not previously approved by NCUA. Two commenters rejected the proposal that FCUs seek approval from NCUA. One commenter suggested that NCUA regional directors accept applications and process requests within a specified time frame. Another commenter, opposed to an application process, stated that NCUA should set a clear standard so that FCUs could determine their own incidental powers. This commenter also suggested that FCUs could seek a legal opinion from NCUA if necessary. The Board has adopted an approach in the proposed regulation that adopts many of these comments. The proposed regulation provides for regulatory approval to identify additional incidental powers activities, recognizing the deference to which the NCUA as regulator is entitled in making this determination. The Board believes that regulatory identification of permissible activities provides assurance to FCUs that the activities in which they engage are legal.

The Board proposed retaining the current regulation's conflict of interest provisions. To provide clarity, the Board sought comment on possible definitions for the phrase ''in conjunction with any activity.'' One commenter supported the current conflict of interest provision. Others commenting on this section offered various suggestions for amending this provision. One commenter stated that, where no conflict of interest exists, senior management should not be prohibited from receiving compensation from an FCU in conjunction with group purchasing. Another commenter suggested that, instead of defining the phrase, it should be eliminated from the regulation. Five commenters also suggested that, under certain conditions, the regulation permit senior management officials to receive bonuses or incentives for overseeing group purchasing activities.

The proposed rule deletes the phrase ''in conjunction with'' and replaces it with the phrase ''in connection with.'' This will make the provision consistent with other NCUA conflict of interest provisions that use the phrase ''in connection with,'' such as the lending regulation. 12 CFR 701.21(c)(8). To address the confusion about the application of the conflict of interest provision, the section by section analysis that follows provides an example illustrating the kind of compensation that is permissible.

C. Overview of the Proposed Regulation

1. The Incidental Powers Authority

The legal authority for the activities covered by part 721 is the incidental powers provision of the Federal Credit Union Act (FCU Act). 12 U.S.C. 1757(17). That provision states that an FCU may ''exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated.'' 12 U.S.C. 1757(17). Over the years, NCUA has looked to whether an activity is convenient or useful to the credit union's business as expressly authorized by the FCU Act when determining if an activity is authorized. NCUA's position has been based on *Arnold Tours, Inc.* v. *Camp,* 472 F.2d 427 (1st Cir. 1972). This case established a test for determining the incidental powers of national banks and was applied to FCUs in *American Bankers Association* v. *Connell,* 447 F. Supp. 296 at 298 (D.D.C. 1978).

Recently, the U.S. Supreme Court expanded the incidental powers of national banks in *Nationsbank of North Carolina* v. *Variable Annuity Life Insurance Co.* (VALIC), 513 U.S. 251 (1995). The Court found that the powers of national banks are not limited to those activities enumerated in 12 U.S.C 24 (Seventh), and that banks have the authority to carry on the business of banking as provided in that section. The Court deferred to the OCC's finding that the brokerage of financial investment instruments and the sale of investment products, such as annuities, are authorized as part of, or incidental to, the business of banking. *Id.* at 259. In evaluating the case, the Court stated:

> We expressly hold that the ''business of banking'' is not limited to the enumerated powers in section 24 Seventh and that the Comptroller therefore has discretion to authorize activities beyond those specifically enumerated. The exercise of the Comptroller's discretion, however, must be kept within reasonable bounds. Ventures distant from dealing in financial investment instruments—for example, operating a general travel agency—may exceed those bounds.

Id. at 259, n. 2.

After considering VALIC and the cases and OCC interpretations that have evolved since the VALIC case was decided, the Board recognizes that it, like the OCC, has the discretion under the incidental powers provision to authorize activities beyond those enumerated in the FCU Act. The Board believes that it may adopt a broader, more flexible analysis of those activities that fall within an FCU's incidental powers than it has used in the past.

The Board believes that the incidental activities of FCUs have evolved and must continue to evolve as a result of changes in the enumerated powers in the FCU Act and the impact of modern technology on how FCUs deliver financial services to their members. Congress, since the creation of the federal charter in 1934, has seen fit to amend the FCU Act many times, expanding the express powers of FCUs in various areas, including the types of accounts FCUs may offer, the types of lending and the permissible maturities for loans, and permissible investments, including the ability of FCUs to invest in credit union service organizations that support the operations of the credit unions they serve. As a result, the exercise of incidental powers, necessary for FCUs to carry on the business for which they are incorporated, has expanded. In addition, the Board is very aware of the significant impact that changing media has had on how businesses operate. Particularly, electronic communication has changed dramatically the nature and delivery of financial services. As a result, the exercise of incidental powers must expand to enable FCUs to deliver financial services through the use of modern media.

The Board does not believe it is necessary to link an incidental power directly to an express power enumerated in the FCU Act but generally will consider an activity to be within an FCU's incidental powers if it is ''necessary or requisite to enable it to carry on effectively the business for which it is incorporated.'' 12 U.S.C. 1757(17). The Board believes the business of FCUs is to provide financial services to their members as contemplated by the FCU Act.

In determining whether an activity is authorized as an appropriate exercise of an FCU's incidental powers, the Board will consider: (1) Whether the activity is convenient or useful in carrying out the

mission or business of credit unions consistent with the Federal Credit Union Act; (2) whether the activity is the functional equivalent or logical outgrowth of activities that are part of the mission or business of credit unions; and (3) whether the activity involves risks similar in nature to those already assumed as part of the business of credit unions. In reviewing whether an activity is within an FCU's incidental powers, the Board is adopting criteria that are substantially similar to those used by the OCC but notes that those criteria will be applied in the unique context of credit unions and the business for which they are incorporated. Thus, while the Board may look to other laws and precedents in the financial industry for guidance in this area, the results of the Board's analysis may be different.

2. Other Considerations

The Board acknowledges that the proposed regulation will permit FCUs to engage in some activities that may have been traditionally performed by credit union service organizations (CUSOs). For example, both FCUs and CUSOs may offer income tax preparation. The Board continues to believe that CUSOs provide a good vehicle for providing services to credit unions and their members while protecting federal credit unions from increased liability. In addition, CUSOs are a means for FCUs to pool their resources and establish an operation for products or services that a single FCU would not be able to support on its own.

D. Section by Section Analysis

Section 721.1 What does this part cover?

This section describes the scope of part 721.

Section 721.2 What is an incidental powers activity?

This section establishes a definition for an incidental powers activity by using a three prong test. NCUA will determine whether an activity is within the incidental powers of FCUs if the activity: (1) Is convenient or useful in carrying out the mission or business of credit unions consistent with the Federal Credit Union Act; (2) is the functional equivalent or logical outgrowth of activities that are part of the mission or business of credit unions; and (3) involves risks similar in nature to those already assumed as part of the business of credit unions.

Section 721.3 What categories of activities are preapproved as incidental powers necessary or requisite to carry on a credit union's business?

Proposed § 721.3 establishes categories of activities that the Board has determined to be within an FCU's incidental powers. It is not intended to be exhaustive and the regulation provides a mechanism for approving additional activities. Each of the categories is discussed briefly in this preamble.

Certification Services

The Board proposes that various certification services, such as notary services, electronic signature authentications and signature guarantees, are within the incidental powers of an FCU.

The provision of notary services has been an exercise of an FCU's incidental powers for many years. A notary administers oaths, verifies the identity of a signer, attests to the verification, records signatures, and authenticates commercial transactions. By providing notary services to members, an FCU facilitates transactions for its members that require the certification of signatures. This service allows for timely processing of credit union transactions as compared with sending members elsewhere for notarizations. Therefore, this service is convenient and useful in carrying out an FCU's business by allowing it to operate efficiently and effectively.

Similarly, the Board proposes that the authentication of electronic signatures is analogous to notarization. Like a notary, a certification authority (CA) must verify the identity of the signer and authenticate the signature or electronic equivalent. While state notary laws impose identification standards, a CA contractually agrees to the extent of its investigation before issuing a particular grade of an authentication certificate.

In a conditional approval, the OCC found that the CA activity is the functional equivalent of notary and other authentication services provided by banks, and a logical outgrowth of bank identification and verification skills. OCC Conditional Approval No. 267 (January 1998). The risks borne by an FCU acting as a CA are similar to a notary's improper verification and are similar to those risks inherent in providing electronic services. The OCC approval was conditioned upon an acceptable information systems and operations architecture, as well as OCC supervision of vendor services. *Id.* FCUs capable of providing this advanced service must employ technological and legal risk controls to address safety and soundness considerations.

FCUs, as eligible guarantor institutions, are permitted to issue signature guarantees for the transfer of securities. 17 CFR 240.17Ad–15. NCUA has maintained for many years that FCUs could engage in the guarantee of stock transfer signatures for their members as a free, goodwill service. The Board now proposes that FCUs may provide signature guarantees for stock transfers and U.S. Treasury transactions, as provided by law, because this activity is an incidental power.

An FCU, acting as a signature guarantor, warrants three conditions: (1) That the signature is genuine; (2) that the signer is appropriately authorized to perform the act; and (3) that the signer has legal capacity to sign. A signature guarantor warrants the authority of the signer, rather than simply the genuineness of the signature. Nevertheless, this activity is fundamentally identity verification and is the functional equivalent or logical outgrowth to the provision of notarial services. Like notary services, this activity conveniently facilitates members' financial transactions.

Correspondent Services

Correspondent services have been an exercise of an FCU's incidental powers for many years. This authority allows a credit union that is authorized to perform a service for its members to provide the same services to other credit unions. For example, a credit union may engage in loan processing for another credit union.

Electronic Financial Services

The Board proposes that FCUs may offer, through electronic means and facilities, any activity, function, product or service that they are otherwise authorized to provide under their express or incidental powers. FCUs may establish their own web sites to promote credit union services and to effect member transactions, such as electronic bill payment, bill presentment, account inquiries and transfers. Web sites have become the electronic equivalent of newsletters, office signs and teller services. They provide a convenient and useful means for FCUs to carry out their business.

Through a transactional web site, an FCU may advertise and communicate with its members and others within its field of membership. Features, such as electronic bill payment and bill presentment, allow members to schedule payments and complete transactions without handwritten drafts or visits to the credit union. As noted by

the OCC, the risks confronted in providing financial services over the Internet are similar to the risks associated with the permissible activities of providing these services via electronic means generally. OCC Interpretive Letter No. 742 (August 1996). Accordingly, there are security issues that FCUs must address to manage risks involved in providing these services.

As part of the electronic delivery of traditional products or services, the Board believes FCUs have the authority under their incidental powers to engage in new activities or services due to the changing commercial environment, such as Internet access. By providing Internet access services to its members, an FCU offers its members a device to receive electronic products and services from the FCU. It also assures the FCU that members will access the credit union's home page when they initially connect to the Internet, positioning the credit union to market its products successfully. Members using the FCU's Internet access and transactional web site can retrieve account information and process transactions similarly to services offered by tellers, automated teller machines or telephone response systems.

Excess Capacity

The Board recognizes that, in planning for future expansion and offering new products and services to their members, FCUs should be able to sell their excess capacity as a matter of good business practice. The sale of excess capacity offers FCUs the opportunity to provide financial services to its members, even though member demand for the services does not initially meet the FCU's capacity. The opportunity to sell excess capacity may involve leasing excess office space, sharing employees, or using data processing systems to process information for third parties. As the business of FCUs is to provide financial services to their members, the Board believes that the sale of excess capacity is within an FCU's incidental powers under two conditions: (1) The FCU properly established the service or made the investment in good faith with the intent of serving its members; and (2) the FCU reasonably anticipates that the excess capacity will be taken up by the future expansion of services to its members.

Financial Counseling Services

Credit unions have traditionally been an alternative for moderate and low-income savers. As nonprofits, they serve to foster the financial well being of their members rather than being driven by achieving corporate profits. The Board believes that, as part of providing credit and saving opportunities for their members, FCUs have the responsibility of promoting provident planning through consumer education and responsible investment. The Board believes it is part of the business of FCUs to provide financial counseling services to their members including estate planning, income tax preparation and filing, and investment and retirement counseling.

Finder Activities

The Board proposes to consolidate group purchasing and insurance activities in part 721 under the category entitled finder activities. Finder activities are defined as the promotion of products and services offered by outside vendors. As a finder, an FCU may introduce to or otherwise bring together outside vendors with its members for the negotiation and consummation of transactions through its role as a financial service provider and intermediary of financial services.

The Board believes that finder activities are member services that are necessary or requisite to enable FCUs to carry on their business effectively. FCUs can serve as their members' primary financial institution by bringing members together with providers of services and products. Although the FCU does not act as a broker, the FCU may negotiate group discounts or benefits on behalf of its membership with vendors. Additionally, these referrals enhance the quality of service FCUs offer their members and afford the FCU the opportunity to promote its own products as well. Examples of finder activities include placing third party vendor advertisements in the FCU's newsletter or as a link to the vendor's web site on the FCU's home page.

In establishing the category of finder activities, the Board is proposing to incorporate activities that FCUs previously have performed as group purchasing activities. In the past, group purchasing plans have been an opportunity for a third party vendor to market its products or services directly to credit union members through various promotional means, such as statement stuffers or advertisements displayed at credit union branches. Currently, part 721 specifically authorizes FCUs to endorse third party vendors and perform administrative functions on their behalf. 12 CFR 721.1. As part of securing an FCU's endorsement, third party vendors typically have provided discounts or other additional benefits to an FCU's members. If FCUs engage in finder activities, the Board believes that FCUs should continue, as they have in the past in providing group purchasing opportunities, to enhance the economic well-being of their members by securing discounts or other benefits for their members from third party vendors.

Marketing

This section states that credit union management can use its longstanding incidental power to advertise and market its services in any legally permissible manner.

Monetary Instruments

This section allows a credit union to sell and exchange monetary instruments for its members. Among other things, it allows credit union to maintain deposits in foreign financial institutions to facilitate member transactions. However, this provision does not allow a credit union to maintain foreign deposits for speculative purposes.

Operational Programs

The Board is proposing to identify certain operational programs as within an FCU's incidental powers. This is not an exclusive list and other programs may be authorized through the legal opinion process. The Board is requesting comment on whether additional programs should be stated in this section or whether this section should be broadened to encompass a wider scope of permissible activities.

Stored Value Products

The Board proposes to identify stored value products or alternate media as within an FCU's incidental powers. As noted in an OCC decision, these products represent a member's prepayment for a merchant's goods or services and are, therefore, a form of bill payment. OCC Interpretive Letter No. 718 (April 1996). A credit union simply transfers funds from a member's share account to a merchant's account. The credit union acts as an intermediary by transferring funds from a member to a merchant, a traditional role for FCUs. Therefore, the activity poses no more additional risk than that already assumed by credit unions.

Trustee or Custodial Services

Although FCUs do not have express trust powers under the FCU Act, they have long served as trustees and custodians where that authority has been granted under other provisions of law such as the Internal Revenue Code. Under this authority, FCUs are able to provide individual retirement accounts (IRA), education saving accounts such

as the Roth IRA, and other savings opportunities that are of importance to modest savers. The ability of FCUs to provide these saving opportunities to their members fits within the role of FCUs as encouraging thrift among their members and creating a source of credit for provident purposes.

Section 721.4 How may a credit union apply to engage in an activity that is not preapproved as within a credit union's incidental powers?

Proposed § 721.4 allows FCUs to seek approval from NCUA to engage in an activity that is not within the ambit of the broad categories set forth in § 721.3. However, before FCUs engage in the petition process they should seek advisory opinions from NCUA's General Counsel, as to whether a proposed activity fits into one of the authorized categories or is otherwise within an FCU's incidental power. If NCUA's Office of General Counsel finds that the activity is not within the scope of the regulation set forth in § 721.3, an FCU wishing to conduct the activity should submit an application by certified mail, return receipt requested, to the Secretary of the Board describing the proposed activity in detail, including the requested activity's financial and operational impact on FCUs. NCUA will endeavor to respond to the applicant within 60 days as to whether it will propose an amendment. The application is treated as a petition to amend § 721.3. Because the addition of a new activity to the list is a substantive change in the regulation, the requirements of the Administrative Procedure Act must be followed.

Paragraph (c) of this section addresses what the Board will consider in determining whether a new activity should be included in the regulation.

This procedure is similar to the one found in § 712.7 for the addition of permissible services for credit union service organizations (CUSOs). The Board originally adopted this procedure in the CUSO regulation in 1986, but FCUs have not found the need to petition for an amendment of this rule. 51 FR 10360 (March 26, 1986). The categories in the current CUSO rule are fairly broad. The Board believes that the proposed categories of activities in proposed § 721.3 are drafted broadly enough to encompass many activities and that the petition process will rarely, if ever, be used.

Section 721.5 What limitations apply to a credit union engaging in activities approved under this part as within a credit union's incidental powers?

This section acknowledges the distinction between an FCU's authority to engage in an activity deemed to be within its incidental powers and the requirement that an FCU comply with any conditions or regulations that apply to the activity. When engaging in an authorized activity, FCUs must comply with conditions or constraints on the activity established in applicable federal and state law, NCUA regulations and legal opinions.

For example, FCUs are responsible for ensuring their compliance with applicable state licensing laws relating to insurance sales. Another example is the use of raffles in promotional activities that may be regulated or prohibited under local law. The regulation does not preempt FCUs from compliance with these laws.

Section 721.6 May a credit union derive income from activities approved under this part?

The proposed regulation provides that an FCU may receive compensation from its incidental power activities because these activities are deemed necessary or requisite for an FCU to carry on its business effectively. This includes charging fees to vendors that solicit members with products and services.

Section 721.7 What are the potential conflicts of interest for official and senior management employees when credit unions engage in activities approved under this part?

The proposed regulation defines a senior management employee, official, and immediate family member similarly to other conflict of interest provisions in NCUA regulations, such as those in the lending regulation. 12 CFR 701.21(c)(8).

The proposed regulation, again consistent with other NCUA regulations, prohibits a senior management employee, official, or his or her immediate family member from receiving any compensation or benefit, directly or indirectly, from activity that is covered by the regulation. The Board wishes to clarify that this section only prohibits compensation that is linked to products or services provided by third party vendors.

The Board does not prohibit compensation from the above named persons by a third party vendor if the compensation is: (1) Fixed in amount; (2) not related to the amount of products sold or services used; and (3) received by no more than one director or official of the credit union, who is recused from the credit union decision concerning its business with the third party vendor. This type of arrangement does not present the type of conflict that would cause NCUA safety and soundness concerns. The following example of compensation that is not prohibited by the Board may prove helpful. A federal credit union official, Ms. Smith, is also on the board of directors of Company DMH, which sells phone cards. Ms. Smith is paid $5,000 a year by Company DMH for her services as a director. The credit union contracts with Company DMH to provide prepaid phone cards to its members. Ms. Smith is not involved in the decision making process, and her compensation from the DMH Company is not linked to the credit union's phone card sales. Under this type of scenario, there is no conflict of interest and the compensation paid by DMH Company is not prohibited.

Finally, proposed § 721.7 allows employees, who are not senior management employees or officials, to receive incentives, provided the FCU's board of directors maintains a policy on the program and determines that no conflict exists.

Regulatory Procedures

Paperwork Reduction Act

NCUA has determined that the proposed regulation does not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This proposed rule, if adopted, will apply only to federally-chartered credit unions. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that the proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

List of Subjects in 12 CFR Part 721

Credit unions.

By the National Credit Union Administration Board on November 16, 2000.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, it is proposed that 12 CFR chapter VII be amended as follows:

Part 721 is revised to read as follows:

PART 721—INCIDENTAL POWERS

Sec.

Authority: 12 U.S.C. 1757(17), 1766 and 1789.

§ 721.1 What does this part cover?

This part authorizes a federal credit union (you) to engage in activities incidental to your business as set out in this part. This part also describes how interested parties may request a legal opinion on whether an activity is within a federal credit union's incidental powers or apply to add new activities or categories to the regulation.

§ 721.2 What is an incidental powers activity?

An incidental powers activity is one that is necessary or requisite to enable you to carry on effectively the business for which you are incorporated. An activity meets the definition of an incidental power activity if the activity:

(a) Is convenient or useful in carrying out the mission or business of credit unions consistent with the Act;

(b) is the functional equivalent or logical outgrowth of activities that are part of the mission or business of credit unions; and

(c) involves risks similar in nature to those already assumed as part of the business of credit unions.

§ 721.3 What categories of activities are preapproved as incidental powers necessary or requisite to carry on a credit union's business?

The categories of activities in this section are preapproved as incidental to carrying on your business under § 721.2. The examples of incidental powers activities within each category are provided in this section as illustrations of activities permissible under the particular category, not as an exclusive or exhaustive list.

(a) *Certification services.* Certification services are services whereby you attest or authenticate a fact for your members' use. Certification services may include such services as notary services, signature guarantees, certification of electronic signatures, and share draft certifications.

(b) *Correspondent services.* Correspondent services are services you provide to other credit unions that you are authorized to perform for your members or as part of your operation. These services may include loan processing, member check cashing services and automated teller machine deposit services.

(c) *Electronic financial services.* Electronic financial services are any services, products, functions, or activities that you are otherwise authorized to perform, provide, or deliver to your members but performed through electronic means. Electronic services may include online transaction processing through a web site, web site hosting services, and Internet access services to perform or deliver products or services to members.

(d) *Excess capacity.* Excess capacity is the excess use or capacity remaining in facilities, equipment, or services that you have acquired or developed in good faith in the furtherance of your operations. You may sell or lease the excess capacity in facilities, equipment or services such as office space, employees and data processing.

(e) *Financial counseling services.* Financial counseling services means advice, guidance or services that you offer to your members to promote thrift or to otherwise assist members on financial matters. Financial counseling services may include income tax preparation service, electronic tax filing for your members, counseling regarding estate and retirement planning, and investment counseling.

(f) *Finder activities.* Finder activities are activities in which you introduce or otherwise bring together outside vendors with your members so that the two parties may negotiate and consummate transactions. Finder activities may include offering third-party products and services to members through the sale of advertising space on your web site, account statements and receipts, or selling statistical or consumer financial information to outside vendors to facilitate the sale of their products to your members. Finder activities also include the offering of insurance products or agreements that cover credit disability, life savings, mechanical breakdown, debt cancellation, debt suspension, or loan protection.

(g) *Marketing activities.* Marketing activities are the activities or means you use to promote the products and services you offer to your members. Marketing activities may include advertising and other promotional activities such as raffles, membership referral drives, and the purchase or use of advertising.

(h) *Monetary instrument services.* Monetary instrument services are services that enable your members to purchase, sell, or exchange various currencies. These services may include the sale and exchange of foreign currency and U.S. commemorative coins. You may also use accounts you have in foreign financial institutions to facilitate your members' transfer and negotiation of checks denominated in foreign currency.

(i) *Operational programs.* Operational programs are programs that you establish within your business to establish or deliver products and services that enhance member service and promote safe and sound operation. Operational programs may include electronic funds transfers, remote tellers, point of purchase terminals, debit cards, payroll deduction, pre-authorized member transactions, direct deposit, check clearing services, safe deposit boxes, letters of credit, loan collection services, service fees, and collateral protection programs for improving repossessed collateral.

(j) *Stored value products.* Stored value products are alternate media to currency in which you transfer monetary value to the product and create a medium of exchange for your members' use. Examples of stored value products include stored value cards, public transportation tickets, event and attraction tickets, gift certificates, prepaid phone cards, postage stamps, electronic benefits transfer script, and similar media.

(k) *Trustee or custodial services.* Trustee or custodial services are services in which you are authorized to act under any written trust instrument or custodial agreement created or organized in the United States and forming part of a pension or profit-sharing plan, as authorized under the Internal Revenue Code. These services may include acting as a trustee or custodian for member retirement and education accounts.

§ 721.4 How may a credit union apply to engage in an activity that is not preapproved as within a credit union's incidental powers?

(a) *Application contents.* To engage in an activity that may be within an FCU's incidental powers but not fall within a preapproved category listed in § 721.3, you may submit an application by certified mail, return receipt requested, to the NCUA Board. Your application must describe the activity, including your proposed investment in the activity and the financial and operational impact of the activity on you, your explanation, consistent with the test provided in paragraph (c) of this section, of why this activity is within your incidental powers, your plan for implementing the proposed activity, any state licenses you must obtain to conduct the activity, and any other information necessary to describe the proposed activity adequately. Before you engage in the petition process you should seek advisory opinions from NCUA's Office of General Counsel, as to whether a proposed activity fits into one of the authorized categories without filing a petition to amend the regulation.

(b) *Processing of application.* Your application must be filed with the Secretary of the NCUA Board. NCUA will review your application for completeness and will notify you whether additional information is required or whether the activity requested is permissible under one of the categories listed in § 721.3. If the activity falls within a category provided in § 721.3, NCUA will notify you that the activity is permissible and treat the application as withdrawn. If the activity does not fall within a category provided in § 721.3, NCUA staff will consider whether the proposed activity is legally permissible. Upon a recommendation by NCUA staff that the activity is within a credit union's incidental powers, the NCUA Board may amend § 721.3 and will request public comment on the establishment of a new category of activities within § 721.3. If the activity proposed in your application fails to meet the criteria established in paragraph (c) of this section, NCUA will notify you within a reasonable period of time.

(c) *Decision on application.* In determining whether an activity is authorized as an appropriate exercise of a federal credit union's incidental powers, the Board will consider:

(1) whether the activity is convenient or useful in carrying out the mission or business of credit unions consistent with the Act;

(2) whether the activity is the functional equivalent or logical outgrowth of activities that are part of the mission or business of credit unions; and

(3) whether the activity involves risks similar in nature to those already assumed as part of the business of credit unions.

§ 721.5 What limitations apply to a credit union engaging in activities approved as within a credit union's incidental powers?

You must comply with any applicable NCUA regulations, policies, and legal opinions, as well as applicable state and federal law, if an activity authorized under this part is otherwise regulated or conditioned.

§ 721.6 May a credit union derive income from activities approved under this part?

You may earn income for those activities determined to be incidental to your business.

§ 721.7 What are the potential conflicts of interest for officials and senior management employees when credit unions engage in activities approved under this part?

(a) *Conflicts.* No senior management employee, official, or their immediate family member may receive any compensation or benefit, directly or indirectly, in connection with your engagement in an activity authorized under this part.

(b) *Commissions.* No employee, not otherwise covered in paragraph (a) of this section, may receive a commission, fee, or other similar compensation that is directly related to the sale of group purchasing or insurance products to your members, unless your board of directors determines that a conflict of interest does not exist and complies with paragraph (d)(3) of this section when appropriate.

(c) *Business associates and immediate family members.* All transactions with business associates or immediate family members not specifically prohibited by paragraph (a) of this section must be conducted at arm's length and in the interest of the credit union.

(d) *Permissible payments.* This section does not prohibit:

(1) Payment, by you, of salary to your employees;

(2) Payment, by you, of an incentive or bonus to an employee based on your overall financial performance;

(3) Payment, by you, of an incentive or bonus to an employee, other than a senior management employee or paid official, in connection with an activity authorized by this part, provided that your board of directors establishes written policies and internal controls for the incentive program and monitors compliance with such policies and controls at least annually.

(e) *Definitions.* For purposes of this part, the following definitions apply.

(1) *Senior management employee* means your chief executive officer (typically, this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g. Assistant President, Vice President, or Assistant Treasurer/Manager), and the chief financial officer (Comptroller).

(2) *Official* means any member of your board of directors, credit committee or supervisory committee.

(3) *Immediate family member* means a spouse or other family member living in the same household.

[FR Doc. 00–29838 Filed 11–22–00; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–30–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company (GE) CF6–50 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This amendment proposes the adoption of a new airworthiness directive (AD) that applies to GE CF6–50 turbofan engines. This proposal would require removal of old high

pressure compressor (HPC) air ducts and mating hardware and replacement with newly designed air ducts and reworked mating hardware. This proposal is prompted by reports of an uncontained low pressure turbine (LPT) disk failure that resulted from an air duct failure that caused a fan mid shaft (FMS) separation. The actions specified by the proposed AD are intended to prevent HPC air duct failures that could result in FMS failures, that in turn could result in rejected takeoffs or uncontained LPT events.

DATES: The FAA must receive comments on this proposal by January 23, 2001.

ADDRESSES: Submit comments to Docket No. 2000–NE–30–AD in one of the following ways:

Mail comments to the Federal Aviation Administration (FAA), Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 2000–NE–30–AD, 12 New England Executive Park, Burlington, MA 01803–5299. You may also send a request for a copy of the proposal or regulatory evaluation from that address. If you want us to acknowledge receipt of your comments, you must include a self-addressed, stamped postcard on which the Docket No. is written. We will date-stamp your postcard and mail it back to you. OR

E-mail comments to *9-ane-adcomment@faa.gov.* You must include Docket No. 2000–NE–30–AD in the subject line.

You can get the service information referenced in this proposal from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone: (513) 672–8400; fax: (513) 672–8422. You may examine the AD docket (including any comments and service information) at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. You may also examine the service information at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7192, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

You are invited to participate in the proposed rule making by submitting written data, views, or arguments as you may desire. Your communications should identify the Rules Docket number and be sent to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before we take action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments sent will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must send a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NE–30–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–30–AD, 12 New England Executive Park, Burlington, MA 01803-5299.

Discussion

The FAA was recently made aware of a CF6–50 engine installed on a Boeing 747 airplane that experienced an uncontained LPT disk failure caused by an HPC air duct failure, which resulted in a FMS separation. This was the first documented air duct failure that has resulted in a disk separation. There have been 51 occurrences of air duct cracking, six of which have resulted in fan mid shaft (FMS) separation, and two of which have resulted in partial rupture of the HPC stage 14-bolted joint. All six FMS separations have also resulted in uncontained LPT blade failures. Although air duct failures were first documented in 1976, two subsequent redesigns have failed to correct the cracking problem.

The FAA has reviewed General Electric Aircraft Engines Service Bulletin (SB) CF6–50 72–1200, dated May 8, 2000; General Electric Aircraft Engines Alert Service Bulletin (ASB) CF6–50 72–A1200, Revision 1, dated July 20, 2000; and Revision 2, dated November 2, 2000 which describe procedures for removal of the HPC air duct assembly part number 99128M36G03/G04/G05/G06/G08/G20/G21 or 1644M16G03 and mating hardware (rear shaft or 11–14 spool shaft) and replace with the new design air duct and reworked mating hardware.

Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require removal of old HPC air ducts and mating hardware and replacement with newly designed air ducts and reworked mating hardware. This proposal is prompted by reports of an uncontained LPT disk failure that resulted from an air duct failure that caused a FMS separation. The FAA is proposing this AD to prevent HPC air duct failures that could result in FMS failures that in turn could result in rejected takeoffs or uncontained LPT events.

Economic Impact

There are about 1730 engines of the affected design in the worldwide fleet. The FAA estimates that 469 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take about 70 work hours per engine to disassemble and reassemble the HPC module, that it would take 19 hours to rework the mating hardware and that the average labor rate is $60 per work hour. Each new air duct assembly will cost $32,985. Based on these figures, the total proposed AD cost impact on U.S. operators is estimated to be $17,974,425.

Regulatory Impact

This proposal does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposal.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

General Electric Company: Docket No. 2000–NE–30–AD.

Applicability: This airworthiness directive (AD) is applicable to CF6–50 turbofan engines with high pressure compressor (HPC) rotor air duct assemblies P/N's 9128M36G03/G04/G05/G06/G08/G20/G21, or 1644M16G03 installed. These engines are installed on but not limited to Boeing 747, Airbus A300, and McDonnell Douglas DC10 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent HPC air duct failures that could result in fan mid shaft (FMS) failures and uncontained LPT events, accomplish the following:

(a) At next HPC rotor exposure, remove the HPC air duct assembly part number 99128M36G03/G04/G05/G06/G08/G20/G21 or 1644M16G03 and mating hardware (rear shaft or 11–14 spool shaft) and replace with the new design air duct and reworked mating hardware in accordance with the accomplishment instructions of General Electric Aircraft Engines Service Bulletin (SB) CF6–50 72–1200, dated May 8, 2000; General Electric Aircraft Engines Alert Service Bulletin (ASB) CF6–50 72–A1200, Revision 1, dated July 20, 2000; or General Electric Aircraft Engines Alert Service Bulletin (ASB) CF6–50 72–A1200, Revision 2, dated November 2, 2000.

(b) For the purposes of this proposal, HPC rotor exposure is defined as disassembly of the HPC stage 2 disk flange or removal of the HPC stage 1 disk.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators shall submit their request through an appropriate Federal Aviation Administration (FAA) Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Issued in Burlington, Massachusetts, November 15, 2000.

Robert Mann,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 00–29940 Filed 11–22–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–31–AD]

RIN 2120–AA64

Airworthiness Directives; Aerostar Aircraft Corporation Models PA–60–600 (Aerostar 600), PA–60–601 (Aerostar 601), PA–60–601P (Aerostar 601P), PA–60–602P (Aerostar 602P), and PA–60–700P (Aerostar 700P) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Aerostar Aircraft Corporation (Aerostar) Models PA–60-600, PA–60–601, PA–60–601P, PA–60–602P and PA–60–700P airplanes. The proposed AD would require you to replace both of the existing main landing gear lower side brace assemblies with parts of improved design. The proposed AD is the result of several reports of cracking of the main landing gear lower side brace at the upper bolt lug discovered on preflight inspection. The actions specified by the proposed AD are intended to correct damage or cracks in the main landing gear lower side brace at the upper bolt lug where the upper and lower side braces connect. This could result in cracking and failure of the main landing gear lower side brace. Such failure could lead to loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this rule by December 29, 2000.

ADDRESSES: Send comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–31–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may look at comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

You may get the service information referenced in the proposed AD from Aerostar Aircraft Corporation, 10555 Airport Drive, Hayden Lake, ID 83835; telephone: (208) 762–0338; facsimile: (208) 762–8349. You may read this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Richard Simonson, Aerospace Engineer, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW, Renton, Washington 98055; telephone: (425) 227–2597; facsimile: (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD?

We invite your comments on the proposed rule. You may send whatever written data, views, or arguments you choose. You need to include the rule's docket number and send your comments in triplicate to the address mentioned under the caption **ADDRESSES**. We will consider all comments received by the closing date mentioned above, before acting on the proposed rule. We may change the proposals contained in this notice because of the comments received.

Are there any specific portions of the proposed AD I should pay attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might call for a need to change the proposed rule. You may examine all comments

we receive. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this proposal.

The FAA is reexamining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on the ease of understanding this document, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http://www.faa.gov/language/.

How can I be sure FAA receives my comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–31–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this AD?

The FAA has received several reports of cracking of the main landing gear lower side brace at the upper bolt lug discovered on preflight inspection.

What are the consequences if the condition is not corrected?

Damage or cracking of the main landing gear lower side brace, if not detected and corrected, could result in failure of this part. Such failure could lead to loss of the main landing gear with consequent loss of control of the airplane.

Relevant Service Information

Is there service information that applies to this subject?

Aerostar has issued Service Bulletin SB600–134A, dated March 31, 2000.

What are the provisions of this service bulletin?

The service bulletin includes procedures for replacing both existing main landing gear lower side brace assemblies with parts of improved design, Aerostar part number 400084–001, lower side brace assemblies.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD

What has FAA decided?

After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

—the unsafe condition referenced in this document exists or could develop on other Aerostar Models PA–60 series airplanes of the same type design;

—the actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What would the proposed AD require?

This proposed AD would require you to incorporate the actions in Part II of the previously referenced service bulletin.

Cost Impact

How many airplanes would the proposed AD impact?

We estimate that the proposed AD affects 650 airplanes in the U.S. registry.

What would be the cost impact of the proposed AD on owners/operators of the affected airplanes?

We estimate the following costs to do the proposed modification:

Labor Cost	Parts Cost	Total Cost Per Airplane	Total Cost on U.S. Airplane Operators
20 workhours X $60 per hour = $1,200	$1,682 for each airplane	$1,200 + $1,682 = $2,882 for each airplane.	$2,882 X 650 = $1,873,300

Regulatory Impact

Would this proposed AD impact relations between Federal and State governments?

The proposed regulations would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would this proposed AD involve a significant rule or regulatory action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if put into effect, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. You may get a copy by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Aerostar Aircraft Corporation: Docket No. 2000–CE–31–AD

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and all serial numbers through 1026 that are certificated in any category: Models PA–60–600 (Aerostar 600), PA–60–601 (Aerostar 601), PA–60–601P (Aerostar 601P), PA–60–602P (Aerostar 602P), and PA–60–700P (Aerostar 700P).

(b) Who must comply with this AD? Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to correct damage or cracks in the main landing gear lower side brace at the upper bolt lug where the upper and lower side braces connect. This could result in cracking and failure of the main landing gear lower

side brace. Such failure could lead to loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Action	Compliance Time	Procedures
Replace both main landing gear lower side brace assemblies with Aerostar part number 400084–001 lower side brace assemblies.	Within the next 50 hours time-in-service after the effective date of this AD, unless already performed.	Do these replacements following the INSTRUCTIONS PART II: Replacement paragraph of Aerostar Mandatory Service Bulletin SB600–134A, dated March 31, 2000, and the Aerostar Maintenance Manual.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Seattle Aircraft Certification Office (ACO), approves your alternative. Send your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO, 1601 Lind Avenue, SW, Renton, Washington 98055.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Richard Simonson, Aerospace Engineer, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW, Renton, Washington 98055; telephone: (425) 227–2597; facsimile: (425) 227–1181.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get the service information referenced in the AD from Aerostar Aircraft Corporation, 10555 Airport Drive, Coeur d'Alene Airport, Hayden Lake, Idaho 83835–8742; Telephone: (208) 762–0338; facsimile: (208) 762–8349. You may read this document at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on November 14, 2000.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–29939 Filed 11–22–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Installing and Maintaining Commercial Submarine Cables in National Marine Sanctuaries

AGENCY: Marine Sanctuaries Division (MSD), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Reopening of comment period for Advance Notice of Proposed Rulemaking.

SUMMARY: Notice is hereby given that NOAA is reopening the public comment on an advance notice of proposed rulemaking published August 23, 2000. The ANPR was published by NOAA to evaluate whether changes to existing National Marine Sanctuary (NMS) regulations or some form of policy guidance is necessary to clarify NOAA's decision-making process regarding the installation and maintenance of commercial submarine cables within NMSs. If changes or additional guidance are appropriate, the ANPR also requested comments on what the changes or guidance should contain. In addition, the ANPR requested comments on proposed principles on the installation of commercial submarine cables within the marine and coastal environment as a whole. This notice reopens the period for public comment for 15 days.

DATE: Comments on this document must be received by December 11, 2000.

ADDRESSES: Comments should be sent to Debra Malek, Conservation Policy and Planning Branch, National Marine Sanctuary Program, 1305 East-West Highway, SSMC4, 11th Floor, Silver Spring, Maryland, 20910. Attention: Submarine Cable FR Comments. Comments may also be submitted by email to: submarine.cables@noaa.gov

All comments will be available to the public for review at the NOAA Central Library, 2nd floor, Silver Spring Metro Center Building 3 (SSMC3), 1315 East-West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Debra Malek at (301) 713–3125 extension 162.

SUPPLEMENTARY INFORMATION: On August 23, 2000, NOAA published an advance notice of proposed rulemaking (65 FR 51264). The ANPR was published by NOAA to evaluate whether changes to existing NMS regulations or some form of policy guidance is necessary to clarify NOAA's decision-making process regarding the installation and maintenance of commercial submarine cables within NMSs. If changes or additional guidance are appropriate, the ANPR also requested comments on what the changes or guidance should contain. In addition, the ANPR requested comments on proposed principles on the installation of commercial submarine cables within the marine and coastal environment. The ANPR provided a sixty day period for the submission of public comments, with the period closing on October 23, 2000. NOAA received numerous comments in response to this ANPR. It also received a number of requests for additional time to provide information on this subject. In response to these requests, NOAA is providing additional time for comments to be submitted. This notice reopens the period for public comment for fifteen days, until December 11, 2000.

Dated: November 15, 2000.

Ted I. Lillestolen,

Deputy Assistant Administrator for Oceans and Coastal Zone Management.

[FR Doc. 00–30031 Filed 11–22–00; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 00N–1610]

RIN 0910–AC12

Digoxin Products for Oral Use; Revocation of Conditions for Marketing

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revoke the regulation that establishes conditions for marketing digoxin products for oral use. This regulation is no longer necessary because the products, which are new drugs, can be regulated under the approval process for new drug applications (NDA's) and abbreviated new drug applications (ANDA's) as set forth in the Federal Food, Drug, and Cosmetic Act (the act). Elsewhere in this issue of the **Federal Register** FDA is publishing a notice with the agency's conclusions regarding the approval of the Lanoxin NDA and the conditions for marketing oral digoxin products.

DATES: Submit written comments by February 22, 2001. See section II of this document for the proposed effective date of a final rule based on this document.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

The regulation that the agency is proposing to revoke, § 310.500 (21 CFR 310.500), was published in the **Federal Register** of January 22, 1974 (39 FR 2471) (the January 1974 regulation), as amended March 8, 1974 (39 FR 9184), and September 30, 1976 (41 FR 43135). The regulation announced FDA's determination that digoxin products for oral use are new drugs within the meaning of section 201(p) of the act (21 U.S.C. 321(p)) and set forth conditions for marketing the products. FDA established the regulation to provide a systematic regulatory approach to ensure uniformity of marketed oral digoxin products. Studies had shown clinically significant differences in bioavailability of certain oral digoxin products. This variability was a major concern because of the drug's narrow therapeutic range and the potential risk presented to patients using digoxin products of varying bioavailability.

The conditions for marketing set forth in § 310.500 include requirements for submission of ANDA's and bioavailability tests for all oral digoxin products, a mandatory FDA certification program for digoxin tablets based on dissolution testing by the National Center for Drug Analysis, and labeling requirements for all oral digoxin products. The requirements for labeling and submission of ANDA's were stayed (39 FR 9184 and 9219, March 8, 1974); FDA later lifted the stay as it applied to the labeling requirements and issued revised labeling requirements (41 FR 43135, September 30, 1976). The requirement for submission of ANDA's, however, was stayed indefinitely (41 FR 43135). Thus, until recently, FDA has regulated all digoxin products for oral use under the labeling requirements set forth in § 310.500 with digoxin tablets also subject to the certification procedure set forth in § 310.500.

Since publication of § 310.500, the following actions have occurred that render the regulation unnecessary.

In September 1993, Glaxo Wellcome (then Burroughs Wellcome) submitted to the agency an NDA (NDA 20–405) under section 505(b) of the act (21 U.S.C. 355(b)) for Lanoxin (digoxin) Tablets. The submission included safety and effectiveness data on the drug product. In addition to published studies from the literature, the submission included two original studies sponsored by Glaxo Wellcome. These were double-blind, placebo-controlled studies of Lanoxin Tablets in treating congestive heart failure patients taking angiotensin converting enzyme (ACE) inhibitors and/or diuretics.

Based on its review of NDA 20–405 for Lanoxin Tablets, FDA concluded that the application was approvable. The agency determined that the issue of labeling, including appropriate indications, for the drug product should be presented to the agency's Cardiovascular and Renal Drugs Advisory Committee (the advisory committee). During this time, the agency began a systematic review of the labeling for cardiac drugs in general.

In May 1996, the advisory committee addressed the issue of labeling for Lanoxin (digoxin) Tablets. The advisory committee recommended that digoxin be indicated for resting and ambulatory heart rate control in atrial fibrillation and that use in atrial flutter be excluded. The advisory committee recommended that the indication for heart failure should state that most clinical trial data came from trials where digoxin was used in combination with diuretics and ACE inhibitors. The advisory committee also considered preliminary results of the Digitalis Investigation Group (DIG) clinical trial conducted by the National Heart, Lung, and Blood Institute of the National Institutes of Health and the Department of Veterans Affairs Cooperative Studies Program. The DIG trial was a randomized, double-blind, placebo-controlled multicenter trial to evaluate the effects of digoxin (Lanoxin) on mortality from any cause and on hospitalization for heart failure over a 3- to 5-year period in patients with heart failure and normal sinus rhythm. The committee recommended that the final results of the DIG trial be submitted to the Lanoxin Tablets NDA and be incorporated into the labeling.

Glaxo Wellcome submitted the results of the DIG trial to the agency in April 1997. The results of the trial showed that digoxin did not affect mortality adversely.

Based on the review of NDA 20–405 for Lanoxin Tablets and with the recommendations of the advisory committee, FDA approved NDA 20–405 for the following indications:

Heart Failure: LANOXIN is indicated for the treatment of mild to moderate heart failure. LANOXIN increases left ventricular ejection fraction and improves heart failure symptoms as evidenced by exercise capacity and heart failure-related hospitalizations and emergency care, while having no effect on mortality. Where possible, LANOXIN should be used with a diuretic and an angiotensin-converting enzyme inhibitor, but an optimal order for starting these three drugs cannot be specified. [Glaxo Wellcome received 3 years of exclusivity for this indication.]

Atrial Fibrillation: LANOXIN is indicated for the control of ventricular response rate in patients with chronic atrial fibrillation.

Because of the approval of NDA 20–405, digoxin tablets are now eligible for ANDA's under section 505 of the act. Therefore, premarket approval of digoxin products under batch certification is no longer warranted. FDA's conclusions regarding the approval of the Lanoxin NDA and the conditions for marketing oral digoxin products are published in a notice elsewhere in this issue of the **Federal**

Register. In that **Federal Register** notice, FDA is reaffirming its determination that digoxin products for oral use are new drugs and requiring approved applications for marketing.

In addition, the dissolution requirements (i.e., the dissolution rates and methods of measuring digoxin tablet dissolution) specified in § 310.500 are no longer used as standards in the certification program. The current official United States Pharmacopeia (USP) includes a monograph, including dissolution requirements, for digoxin tablets that FDA considers suitable. Therefore, the dissolution requirements specified in § 310.500 for digoxin tablets are now obsolete.

Accordingly, FDA proposes to revoke § 310.500. This regulation is no longer necessary because the products, which are new drugs, can be regulated under the approval process for NDA's and ANDA's as set forth in section 505 of the act.

II. Proposed Effective Date

FDA proposes that any final rule that may issue based on this proposal become effective 30 days after publication of the final rule.

III. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize the benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation). Under the Regulatory Flexibility Act, unless an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, the agency must analyze regulatory options that would minimize any significant impact of a rule on small entities.

The agency has reviewed this proposed rule and has determined that it is consistent with the regulatory philosophy and principles identified in the Executive order and these two statutes. The Unfunded Mandates Reform Act of 1995 does not require FDA to prepare a statement of costs and benefits for the proposed rule because the proposed rule is not expected to result in any 1-year expenditure that would exceed $100 million adjusted for inflation. The current inflation-adjusted statutory threshold is $110 million. No further analysis is required under the Regulatory Flexibility Act because the agency has determined that this proposed rule will not have a significant effect on a substantial number of small entities.

Several studies have indicated a significant variation in the bioavailability of digoxin products for oral use. Concerned that this variation in bioavailability would adversely affect safety and effectiveness, FDA published the January 1974 regulation that established conditions for marketing digoxin products for oral use. This regulation included requirements for ANDA's and bioavailability test results for all oral digoxin products, a mandatory FDA batch certification program for digoxin tablets, and revised labeling for all oral digoxin products. On March 30, 1974, the requirements for labeling and ANDA submissions were stayed. On September 30, 1976, the agency lifted the stay for the labeling requirement. Digoxin tablets continue to be regulated under the certification procedure. On September 30, 1997, FDA approved an NDA for digoxin tablets. As a result, manufacturers of digoxin tablets are now eligible to obtain ANDA's. The agency is now publishing a notice reaffirming its determination that all oral digoxin products are new drugs and lifting the stay of the requirements for submitting ANDA's. Therefore, manufacturers of digoxin products will be required to obtain an approved marketing application to enter or remain on the market. As batch certifications are no longer considered necessary, this proposed rule would revoke the January 1974 regulation.

Presently, there are three manufacturers of digoxin tablets. Two of these companies have already obtained either an NDA or an ANDA. Once FDA requires these products to have approved applications for marketing, the remaining company will need to obtain an ANDA to remain on the market. In addition, FDA will require the two manufacturers of digoxin elixir to obtain approved applications. The agency estimates that it will take these companies up to 480 hours to complete the paperwork requirements associated with the submission of either an ANDA or a 505(b)(2) application. Applying the 1999 labor rate of approximately $41 per hour for a regulatory affairs specialist (with a 40 percent adjustment for benefits),[1] this one-time cost totals approximately $60,000 (3 submissions x 480 hours x $41/hour) for all current manufacturers, or $20,000 (480 x $41) per submission. FDA estimates that there were two market entrants over the past 10 years. Based on this data, the agency assumes that two manufacturers of digoxin products for oral use may enter the marketplace each decade, resulting in possible future submission costs for potential new manufacturers. Some additional annual costs may also be incurred over the life of the application. Although manufacturers may experience some savings from the removal of the batch certification requirement, this savings will be negligible.

According to the Small Business Administration, manufacturers of pharmaceutical preparations with 750 or fewer employees are considered small entities. Applying this definition, only one of the four current manufacturers that will incur submission costs is small. In addition, these costs are likely to represent less than 1 percent of gross revenue. Therefore, the agency certifies that this action will not have a significant economic effect on a substantial number of small entities.

V. Paperwork Reduction Act of 1995

This proposed rule does not require information collection subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (Public Law 104–13). The information collection consists of the submission of NDA's or ANDA's for digoxin products for oral use. The information collection requirements for the submission of NDA's and ANDA's are contained in 21 CFR part 314 and have been approved under OMB Control Number 0910–0001, which expires on November 30, 2001.

[1] U.S. Department of Labor, Bureau of Labor Statistics, ''1999 Occupational Earnings Data,'' Lawyer: ftp://ftp.bls.gov/pub/special.requests/lf/aat39.txt, 26 April 2000.

VI. Requests for Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this proposal by February 22, 2001. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects for 21 CFR Part 310

Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 310 be amended as follows:

PART 310—NEW DRUGS

1. The authority citation for 21 CFR part 310 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360b-360f, 360j, 361(a), 371, 374, 375, 379e; 42 U.S.C. 216, 241, 242(a), 262, 263b-263n.

§ 310.500 [Removed]

2. Section 310.500 *Digoxin products for oral use; conditions for marketing* is removed.

Dated: November 17, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–29997 Filed 11–22–00; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MI75–7284b; FRL–6907–2]

Approval and Promulgation of State Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to adjust the applicability date for reinstating the 1-hour ozone National Ambient Air Quality Standard (NAAQS) in Allegan County, Michigan and is proposing on a determination that this area has attained the 1-hour ozone NAAQS. This determination is based on 3 consecutive years of complete, quality-assured, ambient air monitoring data for the 1997–1999 ozone seasons that demonstrate that the area has attained the ozone NAAQS. On the basis of this determination, EPA is also proposing that certain attainment demonstration requirements, and certain related requirements of part D of subchapter I of the Clean Air Act (CAA), do not apply to Allegan County.

EPA is also proposing to approve the State of Michigan's request to redesignate Allegan County to attainment for the 1-hour ozone NAAQS. Michigan submitted the redesignation request for these areas on September 1 and October 13, 2000. EPA is also proposing to approve the State's plan for maintaining the 1-hour ozone standard for the next 10 years as a revision to the Michigan State Implementation Plan (SIP). In this direct final rule, EPA is also notifying the public that we believe the motor vehicle emissions budgets for volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the Allegan County maintenance plan are adequate for conformity purposes and approvable as part of the maintenance plan.

In the final rules section of this **Federal Register**, EPA is approving the State's request as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving and disapproving portions of the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on this proposed rule within 30 days of this publication. Should EPA receive adverse comment, it will publish a document informing the public that the direct final rule will not take effect and that EPA will address adverse comments in a subsequent final rule based on this proposed rule. If EPA does not receive adverse comments, the direct final rule will take effect on the date stated in that document and EPA will not take further action on this proposed rule. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: EPA must receive written comments by December 26, 2000.

ADDRESSES: Send written comments to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Mooney at (312) 886–6043.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**. Copies of the documents relevant to this action are available for public inspection during normal business hours at the above address. (Please telephone John Mooney at (312) 886–6043 before visiting the Region 5 Office.)

Authority: 42 U.S.C. 7401–7671 *et seq.*

Dated: November 15, 2000.

Gary Gulezian,

Acting Regional Administrator, Region 5.

[FR Doc. 00–30005 Filed 11–22–00; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Chapter XVI

LSC Regulations Review

AGENCY: Legal Services Corporation.

ACTION: Request for public comment.

SUMMARY: As part of its ongoing efforts to improve the administration of regulatory programs and requirements, Legal Services Corporation is soliciting public comment on its regulations toward the development of a regulatory agenda for 2001 and beyond.

DATES: Written comments must be received on or before January 8, 2001.

ADDRESSES: Written comments may be submitted by mail, fax or email to Mattie C. Condray at the addresses listed below.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 750 First Street, NE, Washington, DC 20002–4250; 202/336–8817 (phone); 202/336–8952 (fax); mcondray@lsc.gov.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation's mission is to promote equal access to the system of justice and improve opportunities for low-income people throughout the United States by making grants for the provision of high-quality civil legal assistance to those who would be otherwise unable to afford legal counsel. As part of its ongoing efforts to better serve this mission, the LSC Board of Directors adopted a five-year strategic plan, ''LSC Strategic Directions 2000—2005'' in January of 2000. One element of this plan involves reviewing ''the competitive grantmaking process, the performance standards applicable to LSC grantees, and LSC's statutory and

regulatory compliance requirements for efficiency, unnecessary duplication and implications for the delivery of high quality, appropriate legal services.'' LSC Strategic Directions 2000—2005, page 8.

Pursuant to this directive, LSC, through its Board of Directors' Operations and Regulations Committee, which provides overall direction on LSC regulatory policy and establishes priorities for LSC rulemaking activities, is in the process of conducting a thorough review of LSC's regulations. With this notice, LSC is soliciting public input for the consideration of the Committee and the Board in pursuit of this task.[1]

Victor M. Fortuno,

General Counsel and Vice President for Legal Affairs.

[FR Doc. 00–29871 Filed 11–22–00; 8:45 am]

BILLING CODE 7050–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25 and 101

[IB Docket No. 00–203; FCC–00–369]

Partial Band Licensing and Loading Standards for Earth Stations in the FSS That Share Spectrum With Terrestrial Services, Blanket Licensing for Small Aperture Terminals in the C-Band, Routine Licensing of 3.7 Meter Transmit and Receive Stations at C-Band, and Deployment of Geostationary-Orbit FSS Earth Stations in the Shared Portion of the Ka-Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes rules that will promote more efficient use and sharing of the radio spectrum between FSS earth stations and terrestrial fixed service stations by requiring the showing of actual or planned use of the spectrum when access to that spectrum is denied to potential new users. The proposed rules also promote efficient sharing of spectrum by requiring the use of previously agreed interference analysis models during subsequent frequency coordinations. In addition, they are designed to provide wider access to electronic commerce in underserved rural areas of America by facilitating the deployment of small antenna terminals in C-band satellite networks under a single authorization, with prior frequency coordination. Finally, this document seeks comment on how to facilitate the deployment of GSO FSS earth stations without individual site-by-site licensing in the portion of the Ka-band that is shared with terrestrial fixed services.

DATES: Submit comments on or before January 8, 2001. Submit reply comments on or before February 9, 2001.

FOR FURTHER INFORMATION CONTACT: Edward R. Jacobs, Planning & Negotiations Division, International Bureau. (202) 418–0624 or via electronic mail: *ejacobs@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in IB Docket No. 00–203, adopted October 13, 2000 and released October 24, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) 445 12th Street SW., Washington, DC and may also be purchased from the Commission copy contractor, International Transcription Services (ITS), Inc., (202) 857–3800, 1231 20th Street, N.W., Washington, D.C. 20036.

Summary of the Notice of Proposed Rulemaking

1. In this Notice of Proposed Rulemaking, the Commission considers a series of filings concerning the application of our part 25 rules to Fixed-Satellite Service (FSS) earth stations in bands shared on a primary basis with the terrestrial Fixed Service (FS). Specifically, Onsat Network Communications, Inc. (Onsat) petitions for a declaratory order that our part 25 rules permit the licensing, under a single authorization, of small aperture terminal satellite earth station networks in the C-band (3700–4200 MHz and 5925–6425 MHz). These C-band small aperture terminal earth station networks, or CSATs, are technically similar to the very small aperture terminal earth station networks, or VSATs, currently deployed in the Ku-band (11.7–12.2 GHz and 14.0–14.5 GHz). The Fixed Wireless Communications Coalition (FWCC) petitions for a declaratory ruling regarding partial-band licensing of FSS earth stations and a rulemaking to amend part 25 of the Commission's rules to set loading requirements. Hughes Network Systems (Hughes) seeks consideration of its proposal to deploy geostationary orbit FSS earth stations in the shared portion of the Ka-band (17.7–19.7 GHz and 27.5–29.5 GHz). We address all but Onsat's petition for waiver of § 25.212(d) of the Commission's rules regarding routine licensing of 3.7 meter transmit and receive earth stations at C-band. Specifically, we deny Onsat's petition for declaratory order, but propose to amend our rules to permit the licensing, under a single authorization and with prior coordination, of a limited class of small aperture terminal earth station networks in the C-band to communicate with geostationary satellites. We will issue a separate licensing decision on the specific application for the Onsat system that Onsat filed several months after its Petition for Declaratory Order. We deny FWCC's request for a declaratory ruling requiring partial-band licensing of FSS earth stations. We propose, however, to adopt rules directed at addressing FWCC's concerns about effective and equitable use of spectrum in bands shared by the FS and FSS. Finally, we seek comment on, and alternatives to, the recent *ex parte* pleading filed by Hughes in the *18 GHz Proceeding,* concerning the proposed deployment of earth stations for geostationary satellite orbit (GSO) FSS systems in the shared portion of the Ka-band without individual site-by-site licensing.

2. *The FWCC Petitions.* On May 5, 1999, FWCC filed a Request for Declaratory Ruling and Petition for Rulemaking (together, ''FWCC Petitions'') asking the Commission to impose various conditions on FSS earth stations in bands that are shared on a co-primary basis with FS operations. FWCC's Petitions reference the following bands: 3700–4200, 5925–6425 and 6425–7125 MHz and 10.7–11.7, 12.7–13.25, 17.7–19.7, and 27.5–29.5 GHz. The Fixed-Satellite Service is a radiocommunication service between earth stations at given positions, when one or more satellites are used; the FSS also may include feeder links for other space radiocommunication services. The terrestrial fixed service (FS) is a radiocommunication service between fixed points. FWCC states that its proposals seek to maximize efficient use of the radio spectrum for both satellite and point-to-point terrestrial fixed operations.

3. FWCC avers that, while parts 25 and 101 of the Commission's rules provide for sharing on a co-primary basis in certain radio spectrum bands by the FSS and FS, in reality sharing has

[1] This task is not related to the work of the newly chartered Commission which is examining the impacts of certain legal restrictions on persons eligible for LSC-funded legal assistance. That effort, being undertaken pursuant to Board of Directors Resolution 2000–009, is focused on the effects of certain legal restrictions on LSC recipients' ability to provide equal access to justice to low income persons. The regulations review is, instead, focused on comprehensive review of LSC's regulations to support the development of a regulatory agenda for 2001.

not occurred on an equitable basis. Rather, FWCC contends that, in actual practice, band sharing has been on terms disadvantageous to the FS. FWCC alleges that satellite earth station operators receive preferential access to shared spectrum because: (1) The Commission licenses earth stations for the entire allocated band and with no loading requirements, while point-to-point terrestrial operations are limited to frequencies actually needed and are subject to stringent spectrum efficiency requirements, and (2) the Commission licenses earth stations for all azimuths and thus earth stations can deny coordination to terrestrial stations. Thus, FWCC requests a declaratory ruling that would require FSS operators to demonstrate ''actual need'' for the spectrum requested at the time of licensing. Specifically, FWCC proposes that the Commission change its policy of authorizing earth stations to use the entire pertinent frequency bands and instead require that an FSS earth station using spectrum shared with point-to-point terrestrial services be licensed to use no more than twice the amount of spectrum for which it is able to demonstrate ''actual need.'' FWCC also includes a parallel request for a rule that would require FSS earth station applicants to show demonstrated need for the spectrum they seek.

4. FWCC also petitions, pursuant to § 1.401 of the Commission's rules, for amendments to part 25 of the Commission's rules that would require FSS earth stations licensed for more than minimal amounts of spectrum shared with FS operators to meet minimum loading standards. Further, FWCC proposes to require all FSS earth stations to accept interference from new terrestrial facilities on the same basis as they accept any interference in the initial coordination. FWCC states that the objective of these rule changes would be the adoption of spectrum management standards that would achieve in practice the ''co-equal'' sharing specified in parts 25 and 101 of the Commission's rules.

5. Numerous satellite and earth station licensees, users of these services, and industry associations representing the satellite industry oppose the FWCC Petitions. The Fixed Point-to-Point Section of the Wireless Communications Division of the Telecommunications Industry Association (TIA FS/WCD) filed reply comments supporting FWCC's requests.

6. Upon review of the record, we conclude that FWCC raises issues meriting further consideration. We propose specific rules to address the concerns of the Fixed Service community, and we seek comment as to whether the evolving requirements of both satellite and terrestrial systems necessitate a further revision of our current policies and rules to ensure efficient and equitable use of the radio spectrum in bands shared on a co-primary basis by the FSS and FS. We seek comment on the extent of the FS and FSS sharing problem and propose rules on the issues of loading and interference coordination. On the issue of demonstrating actual need, we deny FWCC's request for a declaratory ruling and its parallel request to amend § 25.130 of the Commission's rules to limit the amount of spectrum the Commission would license to FSS earth stations to no more than twice the amount of spectrum for which the licensee has demonstrated ''actual need.'' We do, however, incorporate into the proposed rules the related concept of a ''demonstrated use'' requirement triggered by the denial by an FSS operator of an FS applicant's request to coordinate spectrum. We believe that this proposal is a more effective and equitable approach for addressing the concerns FWCC has raised in its pleadings.

7. In particular, we propose to amend § 25.203 of the Commission's rules to require an FSS earth station that has been licensed to operate in C- or Ku-band shared frequencies for 24 months or longer to demonstrate, in response to the denial of a request of an FS applicant to coordinate spectrum, that the FSS earth station denying coordination is using, has recently used, or has imminent plans to use the requested spectrum. If the FSS earth station licensee cannot make such a demonstration during the coordination, then the FS station may be successfully coordinated and the FSS earth station must not cause unacceptable interference to, nor is it protected from interference from, the FS station on that spectrum in the future. We propose to exempt from the rule those FSS earth stations that are licensed for 40 MHz or less of bandwidth in each direction. At the same time, we propose to amend § 101.141 of the Commission's rules to shorten the loading period for FS licensees in the C- and Ku-bands from 30 to 24 months. Modification of the part 25 and 101 rules in this manner would give both the FSS and FS licensees a comparable period of time in which to put their spectrum to use before it is susceptible to re-licensing to others. We ask for comment as to whether these part 25 and 101 rules should apply in other bands where the FSS and FS share spectrum on a co-primary basis.

8. We also propose to amend parts 25 and 101 to require that an FSS earth station or FS licensee accepting a particular interference analysis model in order to coordinate successfully the location of its station must accept use of the same model in subsequent coordinations. We propose that these rule changes to parts 25 and 101 would apply across all frequency bands where the services share a primary service allocation. Further, we propose to amend part 25 such that, if a C- or Ku-band FSS earth station licensee, during coordination, accepts a level of interference along a set of azimuths recognized to be below normally permissible interference objectives, the licensee may not subsequently claim protection from interference from future FS applicants on those same frequencies within that same set of azimuths. We ask for comment as to whether this part 25 rule should apply at other bands where the FS and FSS share frequencies on a co-primary basis. We further propose that these amended rules would apply to all FSS earth stations and FS stations upon the effective date of the Report and Order in this proceeding.

9. *The Onsat Petition.* On September 10, 1999, Onsat filed a Petition for Declaratory Order that § 25.115(c) of the Commission's rules permits the licensing of Very Small Aperture Terminal (VSAT) satellite earth station networks, under a single authorization and with prior coordination, in the C-band. In the same filing, Onsat petitioned for a waiver to permit routine licensing of its proposed earth stations, which would have an antenna diameter smaller than those allowed to be routinely licensed under our existing rules. We will evaluate Onsat's particular antenna size waiver request in a separate licensing order. We expect to consider later, in an earth station streamlining proceeding, the more general issues of what antenna sizes and power densities may be licensed routinely under this rule. Onsat advocates such licensing of technically identical remote earth station terminals to permit operators to configure their C-band systems quickly without the expense and administrative effort involved in licensing individual earth stations. In support of its petition, Onsat contends that its proposal would further Commission objectives with regard to universal service and deregulation.

10. In its petition Onsat argues that small aperture terminal earth station technology is less expensive and more flexible than are other types of satellite technology, and that these types of earth

stations can be coordinated easily to prevent interference with terrestrial and satellite operations in the C-band. Onsat proposes that, if granted a license for an earth station system consisting of a hub station and a specified number of technically identical remote earth stations, it would submit to the Commission a frequency coordination report for each station before placing it into operation.

11. FWCC initially opposed Onsat's petition on the ground that Onsat's proposed service would further exacerbate FS/FSS frequency coordination difficulties in the C-band, incorporating by reference a copy of its Petitions and arguing that the Commission should not act on Onsat's requests unless and until we acted favorably on FWCC's Petitions. FWCC later withdrew its opposition after Onsat agreed to modify its petition to limit both the amount of C-band spectrum its proposed system would use and the number of geostationary satellite orbital positions toward which its remote earth stations would be directed.

12. We deny Onsat's petition for a declaratory order, but hereby propose rules that include the elements of the Onsat proposal. One of the Commission's chief goals is to foster wide access to electronic commerce and data through the Internet and other networks, particularly in underserved rural areas. We have sought to ensure that multiple service providers bring broadband access to all Americans. The service proposed by Onsat is an innovative means for bringing high-speed data services to rural Americans much more rapidly than might be accomplished by wireline or terrestrial wireless service. We propose to amend part 25 of the Commission's rules to allow the licensing, under a single authorization and with prior coordination, of C-band small aperture terminal earth station networks, which we will term ''CSATs'' to distinguish these small aperture terminal earth stations from the VSAT operations in the Ku-band.

13. At the same time, we note the concerns of the fixed wireless community that the C-band is congested and that authorization of CSATs could add to coordination difficulties between the FS and FSS. We therefore seek comment on those aspects of CSAT service that affect the concerns and issues raised by FWCC. We tentatively conclude that the limitations proposed by Onsat in its modified petition are appropriate limitations that can be applied generally to other prospective CSAT applicants. In a letter from its attorney, Onsat agrees to coordinate only 20 MHz at three different orbital slots. Thus, we propose to limit CSAT networks to operations using no more than 20 MHz of C-band spectrum, and to limit their flexibility to three satellite locations within the visible geostationary satellite arc. We further request comment on whether our rules should limit this C-band service to rural areas, or, alternatively, whether our rules should permit CSAT network service wherever frequency coordination allows the installation of earth stations. Although certain characteristics of the proposed Onsat system are discussed in this NPRM, our focus is on generally-applicable policies, procedures and rules for the operation of this type of small aperture terminal system in the C-band. Because Onsat only recently filed an application to provide this service, we will decide the issue of whether to grant the request for the proposed Onsat system in a separate licensing order.

14. *The Hughes Ex Parte Letter.* We ask for comment on a recent *ex parte* pleading filed by Hughes in the *18 GHz Proceeding* (13 FCC Rcd 19923) concerning the proposed deployment of earth stations for geostationary satellite orbit (GSO) FSS systems in the shared portion of the Ka-band without individual site-by-site licensing. These shared bands are 18.3–18.58 GHz and 29.25–29.5 GHz. In the 18 GHz band, GSO FSS (downlink) and FS share portions of the band. In the 28 GHz band, GSO FSS (uplink) and NGSO MSS feeder links share portions of the band. Hughes contends that the Commission has the power to authorize GSO FSS earth stations under a ''blanket'' licensing approach in these shared bands. Hughes observes that GSO FSS earth stations would operate in the receive mode in the 18 GHz band and thus would not cause interference to terrestrial users sharing the band, but could receive harmful interference from FS transmissions operating in the band. Hughes urges the Commission to allow GSO FSS earth stations to receive signals in the 18 GHz shared band, with the option of registering for interference protection on a site-by-site basis in accordance with the coordination procedures of §§ 25.203 and 25.251 of the Commission's rules. Hughes also suggests that any fees for such registration must be ''consumer-tolerant'' (such as a single low charge for a batch of 1000 registrations, *e.g.,* $295). In the 29.25–29.5 GHz band that is shared with MSS feeder links, Hughes contends that the provisions of § 25.258 of the Commission's rules that deal with intersystem coordination and sharing between NGSO MSS feeder link stations and GSO FSS services are sufficient to allow the deployment of a large number of pre-coordinated GSO FSS earth stations under a single authorization.

15. We invite comment on whether such deployment of GSO FSS earth stations in both the 29.25–29.5 GHz and 18.3–18.58 GHz bands would be practicable. In particular, we seek comment on whether Hughes' request for an expedited and simplified licensing procedure for satellite user earth terminals at Ka-band would raise the same kinds of concerns that FWCC has presented in its instant filings. In this regard, we note that one of the fundamental tenets of the 18 GHz band segmentation plan was to separate services that would be widely deployed. We also seek comment on how deployment of a large number of FSS earth stations over the entire shared portions of the Ka-band, with specific site location information, would impact existing and future MSS feeder link operations. If deployment would be practicable, we ask how such a licensing procedure could be implemented to ensure that the requirements of both the satellite and terrestrial users would be met in the 18 GHz band. We invite comment on whether we should apply to the portion of the 18 GHz band shared by the FSS and FS each of the rules that we propose in this NPRM. We also invite comment on whether, if we were to allow deployment in the shared portion of the Ka-band of a large number of pre-coordinated GSO FSS earth stations under a single authorization, we should limit the earth stations to communications with only the specific satellites that are a part of a single satellite system. This limitation on the number of satellite locations would be similar to our proposal to limit the authorization of CSAT networks in the C-band to only three satellite locations. Further, we ask for general comment on the issue of registration fees and, specifically, on Hughes' proposal that any registration fees for interference protection should be in the range of $295 for a batch of 1000 registrants. We also invite alternative proposals to achieve the objectives of the Hughes proposal, within the scope and overall objectives of this proceeding.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking. We request written public

comments on this IRFA. Commenters must identify their comments as responses to the IRFA and must file the comments by the deadlines for comments on the Notice of Proposed Rulemaking provided above in paragraphs 103–106. The Commission will send a copy of the Notice of Proposed Rulemaking, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 603(a). In addition, the Notice of Proposed Rulemaking and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

We initiate this rulemaking proceeding to obtain comment and develop a record on certain proposals in frequency bands shared between the space and terrestrial fixed services, as well as to provide for the blanket licensing of small aperture antenna terminals in the C-band (CSATs). Specifically, this *NPRM* proposes to amend § 25.203 of the Commission's rules to require an earth station licensed for 36 months or longer to demonstrate, in response to a request of a terrestrial fixed service applicant to coordinate spectrum, that the earth station is using, has recently used, or has imminent plans to use the requested spectrum. Additionally, the item proposes to amend § 25.203 of the Commission's rules to require that an earth station licensee that accepted a particular interference analysis model in order to successfully coordinate location of its station must accept use of the same model in subsequent coordinations. Further, if an earth station licensee, during coordination, accepts a level of interference along a set of azimuths recognized to be below normally permissible interference objectives, the licensee may not subsequently claim protection from interference from future terrestrial fixed service applicants on those same frequencies within that same set of azimuths. With respect to licensing of CSATs in the C-band, we propose to amend § 25.115 of the Commission's rules to model CSAT licensing procedures on the streamlined procedure successfully used since 1992 for licensing small earth stations to GTE Spacenet in the C-band. Additionally, the proposed rule changes will require CSAT applicants in the C-band to complete frequency coordination for each individual earth station antenna, but will allow blanket licensing for a system of technically-identical earth stations so coordinated, with simplified reporting to the Commission. These proposals will facilitate the efficient and equitable use of the shared radio spectrum by satellite and terrestrial fixed service operators through a modification of the coordination and licensing procedures for earth station licensees. These proposals will promote efficient use of the spectrum shared between the satellite and terrestrial services, and will allow the efficient introduction of new satellite technologies that will provide wide access to electronic commerce in underserved, rural areas of America.

B. Legal Basis

The proposed action is authorized under sections 1, 4(i), 4(j), 301, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, and 303.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules May Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small entity licensees that may be affected by the proposed rules, if adopted.

1. Cable Services

The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million or less in revenue annually. This definition includes cable systems operators, closed circuit television services, direct broadcast-satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than $11 million in revenue. The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company,'' is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

The Communications Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 66,690,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 666,900 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 666,900 subscribers or less totals 1,450. We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

2. International Services

The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts. According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $9.999 million. The Census report does not provide more precise data.

3. Fixed Satellite Transmit/Receive Earth Stations

Currently there are over 7500 authorized fixed satellite transmit/receive earth stations authorized for use in bands shared with the terrestrial fixed service. We do not request or collect annual revenue information, and thus are unable to estimate the number of the earth stations that would constitute a small business under the SBA definition.

4. Mobile Satellite Earth Station Feeder Links

There are two licensees operating in spectrum shared with terrestrial fixed services. We do not request or collect annual revenue information, and thus are unable to estimate of the number of mobile satellite earth stations that would constitute a small business under the SBA definition.

5. Space Stations (Geostationary)

Commission records reveal that there are six space station licensees licensed in spectrum shared on a co-primary basis with the terrestrial fixed service in the C- and Ku-bands. We do not request or collect annual revenue information, and thus are unable to estimate of the number of geostationary space stations that would constitute a small business under the SBA definition.

6. Space Stations (Non-Geostationary)

There are four Non-Geostationary Space Station licensees licensed in spectrum shared on a co-primary basis with the terrestrial fixed service in the C- and Ku-bands. We do not request or collect annual revenue information, and thus are unable to estimate of the number of non-geostationary space stations that would constitute a small business under the SBA definition.

7. Auxiliary, Special Broadcast and Other Program Distribution Services

This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radio broadcasting stations (SIC 4832) and television broadcasting stations (SIC 4833). These definitions provide that a small entity is one with either $5.0 million or less in annual receipts for a radio broadcasting station or $10.5 million in annual receipts for a TV station. 13 CFR 121.201, SIC CODES 4832 and 4833. There are currently 3,237 FM translators and boosters, 4913 TV translators. The FCC does not collect financial information on any broadcast facility and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe, however, that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (as noted, either $5 million for a radio station or $10.5 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a ''small business concern'' because they are not independently owned and operated.

8. Microwave Services

Microwave services includes common carrier, private operational fixed, and broadcast auxiliary radio services. At present, there are over 13,500 common carrier stations, and approximately 18,00 private operational fixed stations and broadcast auxiliary radio stations in the microwave services in spectrum that is potentially affected by this rulemaking. Additionally, these stations represent the following distinct licensees among the various radio services: LMDS (121), DEMS (2), Common Carrier Fixed (PTP and LTTS) (1028), Private Operational Fixed PTP (1511), and Fixed Broadcast Auxiliary (806). Inasmuch as the Commission has not yet defined a small business with respect to microwave services, we will utilize the SBA's definition applicable to radiotelephone companies—*i.e.,* an entity with no more than 1,500 persons. 13 CFR 121.201, SIC CODE 4812. We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The Commission's existing part 25 rules on FSS operations contain reporting requirements for FSS systems, and we propose to modify these reporting requirements to eliminate duplicative costs of filing multiple applications for one particular type of service at C-band. In addition, we propose to add an annual reporting requirement to indicate the number of satellite earth stations actually brought into service. The proposed blanket licensing procedures do not affect small entities disproportionately and it is likely no additional outside professional skills are required to complete the annual report indicating the number of small antenna earth stations actually brought into service. We seek comment on these proposed changes.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

This NPRM solicits comment on alternatives for more efficient spectrum sharing between satellite earth stations and terrestrial fixed service stations, as well as comment on licensing of small aperture antennas at C-band. This item should positively impact both large and small businesses by providing a more efficient and less economically burdensome coordination and licensing procedure for terrestrial fixed stations in spectrum shared with satellite services.

Additionally, the proposed licensing service rules provide for consolidation of licensing for small antenna earth stations and minor reporting requirements to indicate the number of satellite earth stations brought into service.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Ordering Clauses

Pursuant to sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r), this *Notice of Proposed Rulemaking* is hereby *adopted*. FWCC's Request for Declaratory Ruling *is denied*. Onsat's Petition for Declaratory Order *is denied*.

The Commission's Consumer Information Bureau, Reference Information Center, *Shall Send* a copy of this *Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief, Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 25

Communications common carriers, Communications, Radio, Satellites, Telecommunications.

47 CFR Part 101

Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Proposed Rule Changes

For the reasons set forth in the preamble, parts 25 and 101 of title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

2. Section 25.115 is amended by redesignating paragraph (c) as (c)(1) and by adding a new paragraph (c)(2) to read as follows:

§ 25.115 Application for earth station authorizations.

* * * * *

(c) * * *

(2) Large Networks of Small Antennas operating in the 4/6 GHz frequency bands with U.S.-licensed or non-U.S. licensed satellites for domestic services. Applications to license small antenna network systems operating in the 4/6 GHz frequency band shall be filed electronically on FCC Form 312, Main Form and Schedule B.

(i) An initial lead application providing a detailed overview of the complete network shall be filed. Such lead applications shall fully identify the scope and nature of the service to be provided, as well as the complete technical details of each representative type of small antenna (less than 4.5 meters) that will operate within the network. Such lead applications shall not be licensed unless they identify no more than three discrete geostationary satellites to be accessed, identify a maximum of 20 MHz of spectrum to be used for communication channels, and identify the maximum number of earth station sites, the amount of frequency bandwidth sought, and the general geographic area in which each type of small antenna will operate.

(ii) Following the issuance of a license for the initial lead application, the licensee shall notify the Commission of the complete technical parameters of each individual earth station site before that site is bought into operation under the lead authorization. Full frequency coordination of each individual site shall be completed prior to filing Commission notification and conducted in accordance with § 25.203. Such notification shall be done by electronic filing and shall be consistent with the technical parameters of Schedule B of FCC Form 312. These individual site notifications will be routinely processed. Operation of each individual site may commence if no comments are received within a 30-day period after public notice of the licensee's notification filing. Continuance of operation for the duration of the lead license term of each individual site shall be dependent upon successful completion of the normal public notice process. If any objections are received to the newly added remote stations, the licensee shall not operate those particular stations until the coordination dispute is resolved and the licensee informs the Commission of the resolution. Each CSAT licensee shall provide the Commission an annually updated list of all operational earth stations in its system. The annual list also shall include a list of all earth stations planned for the next 12 months but not yet built, a list of all earth stations deactivated during the year, and a report of any changes in satellite location applicable to the CSAT network.

* * * * *

3. Section 25.134 is amended by:

a. Revising the section heading,

b. Redesignating paragraph (a) as (a)(1) and adding a heading,

c. Adding a new paragraph (a)(2), and

d. Adding a heading to paragraph (b) to read as follows:

§ 25.134 Licensing provisions of Very Small Aperture Terminal (VSAT) and C-band Small Aperture Terminal (CSAT) networks.

(a) * * *

(1) *VSAT networks operating in the 12/14 GHz bands.* * * *

(2) *Large Networks of Small Antennas operating in the 4/6 GHz frequency bands.* All applications for digital and/or analog operations will be routinely processed provided the network employs antennas that are 4.5 meter or larger in diameter, that are consistent with § 25.209, the power levels are consistent with § 25.211(d) and § 25.212(d), and frequency coordination has been satisfactorily completed. The use of smaller antennas or non-consistent power levels require the filing of an initial lead application (§ 25.115(c)(2)) that includes all technical analyses required to demonstrate operation on a non-interference basis or an affidavit from the satellite operator that such non-conforming operations have been successfully coordinated with any and all affected adjacent satellite operators.

(b) *VSAT networks operating in the 12/14 GHz bands.* * * *

* * * * *

4. Section 25.203 is amended by redesignating paragraphs (e) through (k) as (f) through (l) and by adding a new paragraph (e) to read as follows:

§ 25.203 Choice of sites and frequencies.

* * * * *

(e) The following provisions shall apply to the coordination of a newly proposed terrestrial station with an existing or previously filed FSS earth station:

(1) When a terrestrial fixed service license applicant requests but is denied coordination in spectrum in the 3700–4200 MHz, 5925–6425 MHz, 6525–6875 MHz or 10.7–11.7 GHz band, a potentially affected earth station licensee must demonstrate to the frequency coordinator that it is actually using, has recently used, or has imminent plans to use the spectrum in question if the earth station licensee wishes, in the case of a receiving earth station, to be protected from interference from the new terrestrial

fixed station on that spectrum, or, in the case of a transmitting earth station, not to have to protect the new terrestrial station.

(i) If the earth station licensee cannot make such a demonstration during the coordination, then the terrestrial fixed station may be successfully coordinated and the earth station must not cause unacceptable interference to, nor is it protected from interference from, the terrestrial fixed station on that spectrum in the future. In demonstrating use of the spectrum that has been denied coordination, the earth station licensee shall:

(A) For recent use, identify the timeframes during which each satellite transponder frequency band was used within the past 24 months;

(B) For current use, identify each satellite transponder frequency band in use at the time of the coordination request; and

(C) For imminent use, certify the availability of some form of detailed information or planned use, *e.g.,* use to be initiated within the next six months and supported by contract(s) or other documentation.

(ii) If, however, the earth station has been licensed for less than twenty-four months, all of its licensed bandwidth will be considered in use for purposes of the coordination. Earth stations licensed for 40 MHz or less in each direction would not be required to demonstrate use within any timeframe in order to retain protection for that spectrum.

(2) If an earth station licensee accepts a particular interference analysis model that employs certain interference mitigating factors, such as terrain or building blockage, in order to successfully coordinate its station with a terrestrial fixed station, then it must accept the use of that same model in subsequent coordinations.

(3) If an earth station applicant for spectrum in the 3700–4200 MHz, 5925–6425 MHz, 6525–6875 MHz or 10.7–11.7 GHz band, during its coordination, accepts a level of interference that is recognized to be below accepted interference objectives along a set of azimuths and elevation angles on part of the spectrum for which it is applying, and therefore insufficient to clear the interference case, then the earth station licensee is not entitled to protection from interference from future terrestrial fixed service applicants on those same frequencies within that same set of azimuths and elevation angles.

* * * * *

PART 101—FIXED MICROWAVE SERVICES

5. The authority citation for Part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

6. Section 101.103(d)(1) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 101.103 Frequency coordination procedures.

* * * * *

(d) * * *

(1) * * * Additionally, if a fixed station licensee accepts a particular interference analysis model that employs certain interference mitigating factors, such as terrain or building blockage, in order to successfully coordinate its station with a fixed satellite service earth station in the 3700–4200 MHz, 5925–6425 MHz, 6525–6875 MHz or 10.7–11.7 GHz frequency band, then it must accept the use of that same model in subsequent coordinations.

* * * * *

7. Section 101.141(a)(3) is amended by revising the first sentence of footnote 3 to the table to read as follows:

§ 101.141 Microwave modulation.

(a) * * *

(3) * * *

[3] This loading requirement must be met within 24 months of licensing. * * *

* * * * *

[FR Doc. 00–29870 Filed 11–22–00; 8:45 am]

BILLING CODE 6712–01–U

Notices

Federal Register
Vol. 65, No. 227
Friday, November 24, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: December 26, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On August 25 and September 29, 2000, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (65 FR 51794 and 58505) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Bar Assembly, Door

3920–02–000–1915

Services

Administrative/General Support Services

General Services Administration, Central Field Office, 536 S. Clark Street, Chicago, Illinois

Linen Rental

New Orleans Naval Air Station, New Orleans Naval Support Activity, New Orleans, Louisiana

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 00–30000 Filed 11–22–00; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 26, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will result in authorizing small entities to furnish the commodity and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Sorbents, Chemical and Oil

4235–01–441–0246
4235–01–441–0248
4235–01–451–8744
4235–01–453–5159
4235–01–456–8571
4235–01–456–8575
4235–01–456–8858
4235–01–456–8862
4235–01–456–9893
4235–01–456–9899
4235–01–457–0005
4235–01–457–0031
4235–01–457–0421
4235–01–457–0431
4235–01–457–0518
4235–01–457–0658
4235–01–457–0663
4235–01–457–0676
4235–01–457–0677
NPA: San Antonio Lighthouse, San Antonio, Texas

Services

Janitorial/Custodial

Mooers Border Station, Mooers, New York
NPA: Clinton County Chapter, NYSARC, INC, Plattsburgh, New York

Janitorial/Custodial

Redden U.S. Federal Courthouse, Fleet Management Center, 310 West 6th Street, Medford, Oregon
NPA: Pathway Enterprises, Inc, Ashland, Oregon

Janitorial/Custodial

United States Coast Guard Air Station Borinquen, Aguadilla, Puerto Rico
NPA: The Corporate Source, Inc., New York, New York

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 00–30001 Filed 11–22–00; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Notice of Postponement of Final Results of Antidumping Duty New Shipper Review: Glycine from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of final results of antidumping duty new shipper review.

EFFECTIVE DATE: November 24, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Rick Johnson, Office IX, DAS Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–3434 and (202) 482–3818, respectively.

POSTPONEMENT OF FINAL RESULTS: The Department of Commerce (''the Department'') is postponing the final results in the antidumping duty new shipper review of glycine from the People's Republic of China. The deadline for issuing the final results in this new shipper review is now January 24, 2001.

On November 15, 1999, the Department initiated this new shipper administrative review. See *Initiation of New Shipper Administrative Review,* 64 FR 61834 (November 15, 1999). The date for issuing the final results of the review was November 25, 2000. In order to provide interested parties an opportunity to comment on the issue of whether glycine and phenylglycine are comparable products, which arose late in the proceeding, we are extending the time limit for the final results of the new shipper administrative review of glycine from the People's Republic of China by 60 days, in accordance with section 751(a)(3) of the Tariff Act of 1930, as amended. See November 16, 2000 memorandum from Edward Yang to Joseph Spetrini: *Extension of Time Limit for the New Shipper Administrative Review of Glycine from the People's Republic of China.* The date for issuing the final results is now January 24, 2001.

Dated: November 16, 2000.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 00–30039 Filed 11–22–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 00–037. *Applicant:* Washington University School of Medicine, Department of Anesthesiology, Research Unit, 660 South Euclid, Campus Box 8054, St. Louis, MO 63110. *Instrument:* Flash Lamp System with Accessories. *Manufacturer:* Rapp OptoElectronic, Germany. *Intended Use:* The instrument will be used to study the mechanisms that underlie the synaptic connection at a synapse in the brain to determine how an increase in Ca^{2+} regulates synaptic transmission. Application accepted by Commissioner of Customs: November 6, 2000.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 00–30040 Filed 11–22–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of Meeting of National Conference on Weights and Measures

AGENCY: National Institute of Standards and Technology.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Annual Meeting of the National Conference on Weights and Measures will be held January 14 through January 17, 2001, at the Hilton Mesa Pavilion, Mesa, Arizona. The meeting is open to the public.

The National Conference on Weights and Measures is an organization of weights and measures enforcement officials of the States, counties, and cities of the United States, and private sector representatives. The interim meeting of the conference, as well as the annual meeting to be held next July (a notice will be published in the **Federal Register** prior to such meeting), brings together enforcement officials, other government officials, and representatives of business, industry, trade associations, and consumer organizations to discuss subjects that relate to the field of weights and

measures technology and administration.

Pursuant to (15 U.S.C. 272B), the National Institute of Standards and Technology supports the National Conference on Weights and Measures in order to promote uniformity among the States in the complex of laws, regulations, methods, and testing equipment that composes regulatory control by the States of commercial weighing and measuring.

DATES: The meeting will be held January 14–January 17, 2001.

LOCATION OF MEETING: Hilton Mesa Pavilion, Mesa, Arizona.

FOR FURTHER INFORMATION CONTACT: Henry V. Oppermann, Chief, NIST Office of Weights and Measures, 100 Bureau Drive, Stop 2350, Gaithersburg, Maryland 20899–2350. Telephone: (301) 975–5507, or E-mail: owm@nist.gov.

Dated: November 16, 2000.

Karen H. Brown,

Deputy Director, NIST.

[FR Doc. 00–30038 Filed 11–22–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Advanced Mobile Communications/ Third Generation Wireless Systems: Creation of Open Electronic Discussion Forum

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice

SUMMARY: The National Telecommunications and Information Administration (NTIA) has created an open electronic-mail discussion forum (or ''listserv'') on issues pertaining to the identification of radio spectrum for third generation wireless systems in the United States. This open forum is intended to complement the outreach program that President Clinton directed Secretary of Commerce to undertake, in the President's October 13, 2000 Executive Memorandum on this subject. Participation in this listserv is open to all members of the public interested in discussing the issues.

DATES: The listserv will remain open until July 31, 2001, or such other time that NTIA determines. Please note that routine maintenance of NTIA computer systems may render the list inactive for short periods of time.

ADDRESS: To subscribe to the mailing list, send an electronic mail message to <3glist-request@ntia.doc.gov>, leave the subject line blank and put the following command in the body of the message: <subscribe your first name your last name>. Instructions on how to subscribe will also appear on NTIA's home page, <http://www.ntia.doc.gov>.

FOR FURTHER INFORMATION: For further information, please contact Joe Gattuso, NTIA Office of Policy Analysis and Development, telephone: (202) 482–1880; fax: (202) 482–6173; e-mail: <jgattuso@ntia.doc.gov>; U.S. mail: National Telecommunications and Information Administration, Herbert C. Hoover Building, 1401 Constitution Avenue, NW., Suite 4725, Washington, DC 20230.

Please direct media inquiries the NTIA Office of Public Affairs, at (202) 482–7002.

SUPPLEMENTARY INFORMATION: On October 13, 2000, President Clinton signed an Executive Memorandum directing federal agencies to work with the Federal Communications Commission (FCC) and the private sector to identify radio spectrum needed for third generation (3G) wireless communications technology. To meet this goal, the President directed the Secretary of Commerce, among other things, to develop a plan by October 20, 2000, in cooperation with the FCC, the Department of Defense, and other federal agencies, setting forth the necessary steps that will result in licensing of third generation wireless systems by September 30, 2002. The President also directed the Secretary of Commerce to work cooperatively with the FCC to a lead a government-industry effort, through a series of regular public meetings and workshops, to develop recommendations and plans for identifying spectrum for third generation wireless systems consistent with the basic principles adopted at the World Radio Conference 2000.

NTIA is establishing this listserv to facilitate additional, open, public discussion of the issues presented. NTIA requests that participants keep discussions focused on issues related to identification of radio spectrum for 3G systems in the United States. NTIA will not actively moderate the listserv, but staff will follow the discussions. NTIA does not intend this listserv to form a public record upon which to base future policy or administrative actions or activities. The views expressed in the listserv discussions are not necessarily endorsed by the NTIA, the Department of Commerce, or any other agency or entity of the United States Government. NTIA reserves the right to post an archive of messages to the listserv on its public website. More information on NTIA's privacy policy is available at <http://www.ntia.doc.gov/ntiahome/priv616.htm>. Moreover, NTIA reserves the right not to post comments that it deems inappropriate.

The President's Executive Memorandum, the Secretary's statement, the 3G plan, the interim reports, and other information are available on NTIA's web site at <http://www.ntia.doc.gov/ntiahome.threeg.index.html>.

Kathy D. Smith,

Chief Counsel.

[FR Doc. 00–29968 Filed 11–24–00; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 01–01]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 01–01 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: November 16, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

1 NOV 2000
In reply refer to:
I-00/011943

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 01-01 and under separate cover the classified offset certificate thereto. This Transmittal concerns the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Poland for defense articles and services estimated to cost $245 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Reporting of Offset Agreements in accordance with Section 36(b)(1)(C) of the Arms Export Control Act (AECA), as amended by Section 1245 of H.R. 3427 enacted by P.L. 106-113 dated November 29, 1999, requires a description of any offset agreement with respect to this proposed sale. Section 36(b)(1)(g) of the AECA, as amended, provides that reported information related to offset agreements be treated as confidential information in accordance with section 12(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(c)). Information about offsets for this proposed sale are described in the enclosed confidential attachment.

Sincerely,

Tome H Walters Jr

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Separate Cover:
Offset certificate

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 01-01

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser:** Poland

(ii) **Total Estimated Value:**

Major Defense Equipment*	$6 million
Other	$239 million
TOTAL	$245 million

(iii) **Description of Articles or Services Offered:** In support of the proposed F-16A/B aircraft lease being notified separately, two F-16A Block 10 operational capabilities upgrade aircraft for cannibalization, two Pratt and Whitney F-100-PW-100/200 spare engines, two AN/APG-66 radar sets, upgrade of engines to F-100-PW-220, spare and repair parts, devices, support equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering and logistics personnel services and other related elements of logistics support.

(iv) **Military Department:** Air Force (SAA)

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** None

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached

(vii) **Date Report Delivered to Congress:** 1 NOV 2000

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Poland - F-16A Block 10 Operational Capabilities Upgrade Aircraft

The Government of Poland (GOP) has requested a possible sale of two F-16A Block 10 operational capabilities upgrade (OCU) aircraft for cannibalization, two Pratt and Whitney F-100-PW-100/200 spare engines, two AN/APG-66 radar sets, upgrade of engines to F-100-PW-220, spare and repair parts, devices, support equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering and logistics personnel services and other related elements of logistics support. The estimated cost is $245 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Poland while enhancing weapon system standardization and interoperability with U.S. forces.

The Polish Air Force (PoAF) currently operates MiG-21, MiG-29 and SU-22 aircraft. These former Warsaw Pact fighters are expensive to operate and maintain, lack essential NATO interoperability capabilities, and are nearing the end of their useful service lives. This proposed sale and the associated lease aircraft will enhance NATO interoperability and simultaneously provide operational capabilities as the Soviet-era aircraft are eventually retired. This proposed sale will not impact regional military balance of power. It will also allow the PoAF to meet training requirements, as well as national air defense and NATO commitments, starting in early 2003.

The prime contractor will be Lockheed Martin Tactical Aircraft Systems of Fort Worth, Texas and Pratt and Whitney of East Hartford, Connecticut. One or more proposed offset agreements may be related to this proposed sale.

Implementation of this proposed sale will require the assignment of four each U.S. Government and contractor representatives for four years to Poland.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 01-01

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The F-16A Block 10 operational capability upgrade aircraft and Pratt and Whitney F-100-PW-100/200 engine are unclassified. The aircraft does not contain state-of-the-art technology.

2. The F-100 engines and the associated component parts used in F-16A aircraft are unclassified. However, several manufacturing processes, design practices, and metallurgical fabrication techniques used are advanced technology methods found only in the U.S. propulsion technology industry. The sale of F-100 engines to Poland will not include the transfer of sensitive technology since the proposed sale does not include manufacturing processes, design practices, or metallurgical fabrication techniques.

3. A determination has been made that Poland can provide substantially the same degree of protection for the technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the policy justification portion of the notification.

[FR Doc. 00–29931 Filed 11–22–00; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 2001 Diagnosis Related Group (DRG) Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of DRG revised rates.

SUMMARY: This notice describes the changes made to the TRICARE/CHAMPUS DRG-based payment system in order to conform to changes made to the Medicare Prospective Payment System (PPS).

It also provides the updated fixed loss cost outlier threshold, cost-to-charge ratios and the Internet address for accessing the updated adjusted standardized amounts, DRG relative weights, and beneficiary cost-share per diem rates to be used for FY 2001 under the TRICARE/CHAMPUS DRG-based payment system.

EFFECTIVE DATES: The rates, weights and Medicare PPS changes which affect the TRICARE/CHAMPUS DRG-based payment system contained in this notice are effective for admissions occurring on or after October 1, 2000.

ADDRESSES: TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238. The charge for the **Federal Register** is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Marty Maxey, Medical Benefits and Reimbursement Systems, TMA, telephone (303) 676–3627.

To obtain copies of this document, see the **ADDRESSES** section above. Questions regarding payment of specific claims under the TRICARE/CHAMPUS DRG-based payment system should be addressed to the appropriate contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987 (52 FR 32992) set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published August 31, 1988 (53 FR 33461), October 21, 1988 (53 FR 41331), December 16, 1988 (53 FR 50515), May 30, 1990 (55 FR 21863), October 22, 1990 (55 FR 42560), and September 10, 1998 (63 FR 48439).

An explicit tenet of these final rules, and one based on the statute authorizing the use of DRGs by TRICARE/CHAMPUS, is that the TRICARE/CHAMPUS DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the TRICARE/CHAMPUS system will follow the same rules that apply to the Medicare PPS. HCFA publishes these changes annually in the **Federal Register** and discusses in detail the impact of the changes.

In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed below.

I. Medicare PPS Changes Which Affect the TRICARE/CHAMPUS DRG-Based Payment System

Following is a discussion of the changes the Health Care Financing Administration (HCFA) has made to the Medicare PPS that affect the TRICARE/CHAMPUS DRG-based payment system.

A. DRG Classifications

Under both the Medicare PPS and the TRICARE/CHAMPUS DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). The Grouper used for the TRICARE/CHAMPUS DRG-based payment system is the same as the current Medicare Grouper with two modifications. The TRICARE/CHAMPUS system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and has implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. For admissions occurring on or after October 1, 1995, the CHAMPUS grouper hierarchy logic was changed so the age split (age <29 days) and assignments to MDC 15 occur before assignment of the PreMDC DRGs. This resulted in all neonate tracheostomies and organ tranplants to be grouped to MDC 15 and not to DRGs 480–483 or 495. For admissions occurring on or after October 1, 1998, the CHAMPUS grouper hierarchy logic was changed to move DRG 103 to the PreMDC DRGs and to assign patients to PreMDC DRGs 480, 103 and 495 before assignment to MDC 15 DRGs and the neonatal DRGs.

For FY 2001, HCFA will implement classification changes, including surgical hierarchy changes. The CHAMPUS Grouper will incorporate all changes made to the Medicare Grouper.

B. Wage Index and Medicare Geographic Classification Review Board Guidelines

TRICARE/CHAMPUS will continue to use the same wage index amounts used for the Medicare PPS. In addition, TRICARE/CHAMPUS will duplicate all changes with regard to the wage index for specific hospitals that are redesignated by the Medicare Geographic Classification Review Board.

C. Hospital Market Basket

TRICARE/CHAMPUS will update the adjusted standardized amounts according to the final updated hospital market basket used for the Medicare PPS according to HCFA's August 1, 2000, final rule.

D. Outlier Payments

Since TRICARE/CHAMPUS does not include capital payments in our DRG-based payments, we will use the fixed loss cost outlier threshold calculated by HFCA for paying cost outliers in the absence of capital prospective payments. For FY 2001, the fixed loss cost outlier threshold is based on the sum of the applicable DRG-based payment rate plus any amounts payable for IDME plus a fixed dollar amount. Thus, for FY 2001, in order for a case to qualify for cost outlier payments, the costs must exceed the TRICARE/CHAMPUS DRG base payment rate (wage adjusted) for the DRG plus the IDME payment plus $16,036 (wage adjusted). The marginal cost factor for cost outliers continues to be 80 percent.

E. Blood Clotting Factor

For FY 2001, TRICARE/CHAMPUS will use the following HCPCS codes and payment rates for blood clotting factors:

J7190 Factor VIII (antihemophilic factor—human): $0.85 per unit
J7191 Factor VIII (antihemophilic factor—porcine): 2.09 per unit
J7192 Factor VIII (antihemophilic factor—recombinant): 1.12 per unit
J7194 Factor IX (complex): 0.31 per unit
J7198 Anti-inhibitor: 1.43 per unit
Q0160 Factor IX (antihemophilic factor, purified, Non-recombinant): 1.05 per unit
Q0161 Factor IX (antihemophilic factor, recombinant): 1.12 per unit

F. Indirect Medical Education (IDME) Adjustment

The Balanced Budget Refinement Act of 1999, modified the transition for the IDME adjustment that was established by the Balanced Budget Act of 1997. The new multiplier for the IDME adjustment factor for TRICARE/CHAMPUS for FY 2001 is 1.16.

II. Cost to Charge Ratio

For FY 2001, the cost-to-charge ratio used for the TRICARE/CHAMPUS DRG-based payment system will be 0.5353, which is increased to 0.5408 to account for bad debts. This shall be used to calculate the adjusted standardized amounts and to calculate cost outlier payments, except for children's hospitals. For children's hospital cost outliers, the cost-to-charge ratio used is 0.5913.

III. Updated Rates and Weights

The updated rates and weights are accessible through the Internet at *www.tricare.osd.mil* under the heading TRICARE Provider Information. Table 1 provides the ASA rates and Table 2 provides the DRG weights to be used under the TRICARE/CHAMPUS DRG-based payment system during FY 2001 and which is a result of the changes described above. The implementing regulations for the TRICARE/CHAMPUS DRUG-based payment system are in 32 CFR part 199.

Dated: November 16, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–29935 Filed 11–22–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Improving Fuel Efficiency of Weapons Platforms; Notice of Meeting

SUMMARY: The Defense Science Board Task Force on Improving Fuel Efficiency of Weapons Platforms will meet in closed session on November 15–16, 2000, at the Institute for Defense Analyses, 1801 N. Beauregard Street, Alexandria, VA 22311–1772.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will review fuel-efficient technologies, including new or improved fuels, engines, Alternative Fueled Vehicles, and other advanced technologies and assess their operational, logistical, cost, and environmental impacts for a range of practical implementation scenarios.

Due to critical mission requirements, there is insufficient time to provide timely notice required by Section 10(a)(2) of the Federal Advisory Committee Act and Subsection 101–6.1015(b) of the GSA Final Rule on Federal Advisory Committee Management, 41 CFR part 101–6, which further requires publication at least 15 calendar days prior to the meeting of the Task Force on November 15–16, 2000.

Persons interested in further information should call Commander Brian D. Hughes, USN, at (703) 695–4157.

Dated: November 16, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–29932 Filed 11–22–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of advisory committee meeting

SUMMARY: The Defense Science Board (DB) Task Force on Systems Technology for the Future U.S. Strategic Posture will meet in closed session on December 14–15, 2000; January 10–11, 2001; February 14–15, 2001; March 14–15, 2001; April 11–12, 2001; May 16–17, 2001; and June 13–14, 2001. All meetings will be held at Strategic Analysis Inc., 3601 Wilson Boulevard, 6th Floor, Arlington, VA 22202. This Task Force will review the likely nature and evolution of potential future strategic challenges to the U.S., advanced technologies for nuclear weapons systems and non-nuclear strategic weapons systems, and advanced C4ISR technology applications for strategic contingencies.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will consider the extent to which technologies and systems currently being developed and applied for regional contingencies are relevant and applicable to future strategic contingencies; take into account affordability and arms control constraints; look at possible further future ballistic missile defense technology to the extent that ballistic missile defense relates to the overall future strategic posture; and consider strategies for using the national strategic technology base to deal with, or hedge against, the uncertainties and ambiguities inherent in the nature and timing of emergence of possible strategic threats, including possible dissuasion of such threats; and, consider the capability of the technology and industrial base to respond in time to long-term strategic warning in various forms, including the adequacy and responsiveness of DoD's science and technology programs.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these Defense Science Board meetings concern matters listed in 5 U.S.C. 552b(c)(1)(1994), and that accordingly these meetings will be closed to the public.

Dated: November 16, 2000.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–29933 Filed 11–22–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Logistics Transformation Phase II; Notice of Meeting

SUMMARY: The Defense Science Board Task Force on Logistics Transformation Phase II was held in closed session on November 15–16, 2000, at SAIC, 4001 N. Fairfax Drive, Suite 500, Arlington, VA 22203.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will review and evaluate DoD's progress on the transformation of the DoD logistics system. In addition, the Task Force will review future plans and programs to determine their compliance with the recommendations contained in the 1998 DSB report on DoD Logistics Transformation; determine the nature of barriers inhibiting the rapid transformation of the system, paying particular attention to technical, legal, and operational issues; and determining if any future implementation actions are required.

Due to critical mission requirements, there is insufficient time to provide timely notice required by Section 10(a)(2) of the Federal Advisory Committee Act and Subsection 101–6.1015(b) of the GSA Final Rule on Federal Advisory Committee Management, 41 CFR Part 101–6, which further requires publication at least 15 calendar days prior to the meeting of the Task Force on November 15–16, 2000.

Persons interested in further information should call Commander Brian D. Hughes, USN, at (703) 695–4157.

Dated: November 16, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–29934 Filed 11–22–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, (Public Law 92–463), an announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 4–5 December 2000.

Place of Meeting: Hilton Hotel, Crystal City, 2399 Jefferson Davis Highway, Arlington, VA 22202.

Agenda: The ASB will meet for the first of three Plenary Meetings to discuss ongoing studies, plan forthcoming studies and will receive presentations regarding major Army initiatives and issues. These meetings will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, please contact Mike Hendricks at (703) 617–7048.

Wayne Joyner,

Executive Assistant, ASB.

[FR Doc. 00–29974 Filed 11–22–00; 8:45 am]

BILLING CODE 3710–38–M

DEPARTMENT OF DEFENSE

Department of the Army

Mandatory Utilization of Powertrack Requirement

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice.

SUMMARY: The Military Traffic Management Command (MTMC), as the Department of Defense (DOD) Traffic Manager for surface and surface intermodal freight traffic management, hereby announces the mandatory use of USBank's Powertrack system as the transportation transaction and payment system for all air (includes small package express), barge, pipeline, rail and sealift freight carriers, and Guaranteed Traffic carriers, participating in the transport of DOD freight traffic.

DATES: November 30, 2000, for air (includes small package express), barge, pipeline, rail and sealift carriers, and

December 31, 2000, for Guaranteed Traffic carriers.

ADDRESSES: Headquarters, Military Traffic Management Command, ATTN: MTOP–MRM, 200 Stovall Street, Alexandria, VA 22332–5000.

FOR FURTHER INFORMATION CONTACT: Mr. Michael C. Donohue at 703–428–2119, E-mail *donohuem@mtmc.army.mil.* An additional point of contact is Ms. Kiazan Moneypenny At 703–428–2384, E-mail *moneypennyk@mtmc.army.mil.*

SUPPLEMENTARY INFORMATION: A notice proposing mandatory use of USBank's Powertrack System was published in the **Federal Register**, vol. 65, no. 151, page 47970 on Friday, August 4, 2000. In response to this notice we have received one set of comments, from the attorney representing a carrier association, within the 60-day comment period. A synopsis of these comments and responses appear below:

Comment: Carriers must pay a mandatory commission or service charge in order to participate in the program. Said payments are in the form of deductions (of up to 2%) from the amounts paid carriers for their services.

Response: Payment of the above fee is offset by the benefits of being paid more quickly—within 3 business days, as opposed to 30 days or more, and eliminating unnecessary infrastructure maintained just for DOD accounts. Complaints of DOD delayed payments by the industry were among the factors influencing implementation of PowerTrack. Additionally, there is an unspecified cost offset associated with significantly reduced paperwork through elimination of Government unique documentation. Carriers have the option to reflect any increased costs (or savings) from the use of PowerTrack in their rates just as they currently incorporate any other overhead cost of doing business.

Comment: Fees currently charged by USBank to participate in Powertrack exceed those charged in the market place by other sources.

Response: DOD maintains that said fees are well within industry norms. Further, they are appropriate and realistic in view of the benefits described above, particularly rapid payment, a benefit desired by the industry. Elimination of the onerous DOD Carrier invoice process (SF1113) reduces processing time and overhead for the carrier significantly.

Comment: Industry's use of factoring companies is voluntary. Participation in Powertrack is mandatory.

Response: Participation in DOD freight traffic is also voluntary. Use of Powertrack as a condition for so doing has been openly addressed in a variety of forums since DOD Management Reform Memorandum #15 was published in the **Federal Register** in January 1999. DOD maintains this allowed industry members sufficient opportunity to decide if participating in DOD freight traffic, under these circumstances, was to their benefit. Further, prior to Powertrack, use of DOD unique forms and procedures, as a condition for participating in DOD freight traffic was likewise mandatory.

Comment: Selection of USBank/ Powertrack was not competitive. Hence, better rates for the same, or similar, services may have been available elsewhere.

Response: This selection was competitively bid by the General Services Administration, the Government's principal contracting manager, under that agency's procurement procedures.

Comment: DOD receives a discount on transportation charges paid by USBank if DFAS forwards payments thereto within a specified period. This creates a strong appearance of conflict of interests and impropriety on the part of DOD. Further, USBank's willingness to do so suggests they are willing to do the job for less than is actually billed to customers. To avoid imposing an unreasonable financial burden on carriers, rebates should be refunded thereto or deducted from their service charges.

Response: Discounts for timely payments are a common commercial and government practice, as are penalties for late payments. It is in the best interest of both the customer and service provider to leverage discounts to reduce the bill and reduce the service provider's account receivable quickly. This is accepted, open and public, and does not constitute collusion or ''kick-backs.'' If these discounts were redistributed to the industry, then considerations of equity would dictate the same disposition of any penalties. Further, the paperwork involved in such a process would burdensome and would detract from the system's cost benefits.

Comment: MTMC was unequivocally committed to the use of the USBank payment system long before public input was solicited.

Response: Management Reform Memorandum #15 is one of Secretary of Defense William Cohen's Defense Reform Initiatives. The plan to completely reengineer DOD's transportation documentation and financial processes was signed by the Deputy Secretary of Defense, Dr. Hamre on July 7, 1997. Numerous conferences and meeting were hosted by DOD, bringing together senior transportation and financial leadership from within DOD and the transportation industry. In addition, the internal demands of cutting infrastructure costs and improving efficiencies, the commercial transportation industry told DOD that it was not a ''customer of choice''. DOD had to make drastic changes in its overall transportation documentation and related financial business processes. It was no longer acceptable to pay carriers between 30 and 90 days after delivery. MTMC, as the DOD Traffic Manager for surface and intermodal freight traffic, is unequivocally committed to the use of the USBank payment system.

Regulatory Flexibility Act

This action is not considered rule making within the meaning of the Regulatory Flexibility Act, 5 USC 601–612.

Paperwork Reduction Act

The Paperwork reduction Act, 44 USC 3051 *et seq.*, does not apply because no information collection or record keeping requirements are imposed on contractors, offerors or members of the public.

Thomas Hicks,

Assistant Deputy Chief of Staff for Operations and Plans.

[FR Doc. 00–29999 Filed 11–22–00; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 23, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere

with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 16 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Revision of a currently approved collection.

Title: Fiscal Operations Report and Application to Participate (FISAP) in the Federal Perkins Loan, Federal Supplemental Educational Opportunity Grant, and Federal Work-Study Programs.

Frequency: Annually.

Affected Public: Not-for-profit institutions (primary), Businesses or other for-profit, State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1.

Burden Hours: 25780.

Abstract: This application data will be used to compute the amount of funds needed by each institution during the 2002–2003 Award Year. The Fiscal Operations Report data will be used to assess program effectiveness, account for funds expended during the 2002–2001 award year, and as as part of the institutional funding process.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_IMG_Issues@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Jackie Montague at (202) 708–5359. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of the Undersecretary

Type of Review: New Collection.

Title: Study of the SDFSCA Middle School Coordinator Initiative.

Frequency: Semi-Annually Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary), Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 14326.

Burden Hours: 13753.

Abstract: The national evaluation of the Middle School Coordinator Initiative (MSCI) will be conducted over the course of four years and will collect data from district prevention coordinators, Middle School Coordinators, district officials, school principals, prevention teachers, school support personnel, students, parents, and representatives of community organizations. Initiative implementation will be assessed in all funded districts. School-level program data and student outcome data will be collected from a sample of 30 MSCI districts as well as 30 comparison districts over four years. Case study data will be collected from 10 of those MSCI districts.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_IMG_Issues@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (703) 426–9692. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–29956 Filed 11–22–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 26, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: November 17, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Title: GEPA 424 Data Collection on the Distribution of Federal Education Funds (JM).

Frequency: Weekly.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 125.

Burden Hours: 6488.

Abstract: This data collection fulfills a Congressional mandate to obtain information on the distribution of Federal education funds to school districts. Specifically, this data collection obtains information on subgrants and contracts made under state-administered programs as well as programs that provide funds directly to school districts.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_IMG_Issues@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Jackie Montague at (202) 708–5359. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of the Undersecretary

Type of Review: New Collection.

Title: Time to Redesignation of Students Served by Title VII Projects (JM)

Frequency: Other: one-time, will be replaced by new activity.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1.

Burden Hours: 15408.

Abstract: This activity will collect data on the time it takes for students served by Title VII local projects to be redesignated as English proficient or transitioned into mainstream programs. We will also collect some descriptive information on projects, and on characteristics of students that may be related to time to redesignation such as age and prior schooling.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_IMG_Issues@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Jackie Montague at (202) 708–5359. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–29965 Filed 11–22–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Availability of Solicitation

AGENCY: Idaho Operations Office, Department of Energy.

ACTION: Notice of availability of solicitation—steel industry research challenge.

SUMMARY: The U.S. Department of Energy (DOE), Idaho Operations Office (ID), is seeking applications for conceptual designs for steel making processes that will revolutionize the way steel is made in the 21st century. This is the next ''stretch'' step in advancing the future of the domestic steel industry and compliments the current program based on the Steel Technology Roadmap. Each awardee will develop a conceptual design with supporting technical, marketing, economic and policy data; describe opportunities and barriers; and develop energy, environmental and economic targets.

DATES: The deadline for receipt of applications is 3:00 p.m. MST February 28, 2001.

ADDRESSES: Applications should be submitted to: Procurement Services Division, U.S. Department of Energy, Idaho Operations Office, Attention: Elaine Richardson [DE–PS07–01ID14002], 850 Energy Drive, MS 1221, Idaho Falls, Idaho 83401–1563.

FOR FURTHER INFORMATION CONTACT: Elaine Richardson, Contract Specialist, at richarem@id.doe.gov

SUPPLEMENTARY INFORMATION: The statutory authority for this program is the Federal Non-Nuclear Energy Research and Development Act of 1974 (P.L. 93–577). DOE anticipates making approximately 1 to 4 cooperative agreement awards each with a duration of two years or less. At the end of the two-year period, a panel of judges made up of steel industry executives will determine which designs will be selected for long term cost-shared research and development investment. Approximately $500,000 in federal funds is expected to be available to fund the first year of selected design concept efforts. No cost share is required. For-profit, non-profit, state and local governments, Indian Tribes, and institutions of higher education may submit applications in response to this solicitation. Multi-partner collaborations between steel companies, equipment suppliers, engineering firms, and educational institutions are strongly encouraged; collaboration with educational institutions and their students is mandatory. National laboratories will not be eligible for an award under this solicitation. However, an application that includes performance of a portion of the work by a National Laboratory may be considered for award provided the applicant clearly identifies the unique capabilities, facilities, and/or expertise the Laboratory offers the primary applicant. The issuance date of Solicitation No. DE–PS07–01ID14002 will be on or about November 14, 2000. The solicitation will be available in full text via the Internet at the following address: *http://www.id.doe.gov/doeid/psd/proc-div.html/*. Technical and non-technical questions should be submitted in writing to Elaine Richardson by e-mail *richarem@id.doe.gov*, or facsimile at 208–526–5548 no later than January 26, 2001.

Issued in Idaho Falls on November 13, 2000.

R. Jeffrey Hoyles,

Director, Procurement Services Division.

[FR Doc. 00–30016 Filed 11–22–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket Nos. FE C&E 00–29, C&E 00–30 and C&E 00–31; Certification Notice–192]

Office of Fossil Energy; Notice of Filings of Coal Capability of Rumford Power Associates, L.P., Tiverton Power Associates, L.P. and Los Medanos Energy Center, LLC Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Rumford Power Associates, L.P., Tiverton Power Associates, L.P. and Los Medanos Energy Center, LLC submitted coal capability self-certifications pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Coal & Power Im/Ex, Fossil Energy, Room 4G–039, FE–27, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owners/operators of the proposed new baseload powerplants have filed a self-certification in accordance with section 201(d).

Owner: Rumford Power Associates, L.P. (C&E 00–29).
Operator: Energy Management, Inc.
Location: Rumford, Maine.
Plant Configuration: Combined-cycle.
Capacity: 267 MW.
Fuel: Natural gas.
Purchasing Entities: Sold to the regional grid as a merchant plant.
In-Service Date: October 2000.

Owner: Tiverton Power Associates, L.P. (C&E 00–30).
Operator: Energy Management, Inc.
Location: Tiverton, Rhode Island.
Plant Configuration: Combined-cycle.
Capacity: 267 MW.
Fuel: Natural gas.
Purchasing Entities: Sold to the regional grid as a merchant plant.
In-Service Date: August, 2000.

Owner: Los Medanos Energy Center, LLC (C&E 00–31).
Operator: Calpine Corporation.
Location; Contra Costa County, CA.
Plant Configuration: Combined-cycle.
Capacity: 508 MW.
Fuel: Natural gas.
Purchasing Entities: To be sold on a merchant basis under power purchase agreements.
In-Service Date: July 8, 2001.

Issued in Washington, DC, November 16, 2000.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 00–29891 Filed 11–22–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–4–000]

Consumers Energy Company; Notice of Filing

November 15, 2000.

Take notice that on November 2, 2000, Consumers Energy Company (CECo) filed an amendment to their Application For Authorization to Transfer Jurisdictional Transmission Assets To Michigan Electric Transmission Company pursuant to Section 203 of the Federal Power Act, which was filed on October 13, 2000 in the above-captioned docket. CECo and Michigan Transco are requesting that the existing one-page pro forma Bill of Sale be removed from Exhibit H(4) and be replaced with the two-page amended pro forma Bill of Sale.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 29, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–29946 Filed 11–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 1975–014, 2061–004, 2777–007, 2778–005–Idaho]

Idaho Power Company; Notice of Extension of Time

November 15, 2000.

By letter dated November 8, 2000, the Department of the Interior (Interior) requested an extension of time for the filing of comments in response to the Commission's Notice of Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions issued July 14, 2000, and extended August 9, 2000. Interior stated that because of the scope of the projects, staff limitations, and time constraints, additional time is needed in order to prepare and file its comments.

Upon consideration, notice is hereby given that an extension of time for the filing of comments, recommendations, terms and conditions, and prescriptions is granted to and including November 17, 2000.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–29947 Filed 11–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1971 Idaho]

Idaho Power Company; Notice of Extension of Time

November 17, 2000.

On November 14, 2000, Idaho Power Company filed a request for additional time to respond to the Request for Additional Studies and Information (fish passage studies) filed on October 30, 2000, by the Nez Perce Tribe, American Rivers, Idaho Rivers United, and Trout Unlimited. Idaho Power Company stated that more time is needed to identify the nature and extent of any disagreement over the scope, content, and timing of ongoing studies and the issues raised by the study request.

Upon consideration, notice is hereby given that an extension of time for the filing of a response is granted to and including December 14, 2000.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–29950 Filed 11–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–30–000]

ONEOK Midstream Pipeline, Inc., Oktex Pipeline Company; Notice of Application

November 17, 2000.

On November 13, 2000, ONEOK Midstream Pipeline, Inc. (ONEOK Midstream) and Oktex Pipeline Company (Oktex), both at 100 West Fifth Street, Tulsa, Oklahoma 74103 and referred to together as Applicants, jointly filed in Docket No. CP01–30–000 and application pursuant to Section 7 of the Natural Gas Act (NGA) and the Commission's Rules and Regulations for permission to permit ONEOK Midstream to abandon all of its facilities by sale to Oktex and for Oktex to acquire the facilities from ONEOK Midstream, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may be viewed at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Applicants indicate that ONEOK Midstream will be merged into Oktex, an interstate affiliate. Applicants propose that ONEOK Midstream be permitted to abandon by sale to Oktex all of its facilities and for Oktex to acquire those facilities. It is stated that the facilities include 27 miles of 16-inch pipeline in Garfield County, Oklahoma which extend from the tailgate of the Rodman Plant to interconnections with Williams Pipeline Central, Inc., ONEOK Gas Transportation, LLC, Transok, LLC and Reliant Interstate Gas Transmission Company. Applicants indicate that Oktex has agreed to assume all service obligations and operational and economic responsibilities for the subject facilities, and will adopt the firm and interruptible transportation rates of ONEOK Midstream for service along the Rodman line. In addition, it is indicated that Oktex will operate the facilities as part of its interstate system.

Questions regarding the details of this proposed project should be directed to C. Burnett Dunn of Gable & Gotwals, at (918)–595–4816.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before November 27, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest. Also, non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–29948 Filed 11–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–395–000]

Panhandle Eastern Pipe Line Company; Notice of Technical Conference

November 17, 2000.

On June 17, 2000, Panhandle Eastern Pipe Line Company (Panhandle) made a filing to comply with Order No. 637. Several parties have protested various aspects of Panhandle's filing. Take notice that a technical conference to discuss the various issues raised by Panhandle's filing will be held for two days, on Tuesday, January 9, 2001, from 10:00 a.m. to 5:00 p.m., and Wednesday, January 10, 2001, from 10:00 a.m. to 5:00 p.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426. Persons protesting aspects of Panhandle's filing should be prepared to answer questions and discuss alternatives.

All interested persons are permitted to attend. To assist Staff, Attendees are requested to e-mail Horatio.Cipkus@ferc.fed.us stating your name, the name of the entity you represent, the names of the persons who will be accompanying you, and a telephone number where you can be reached.

The issues to be discussed will include, but are not limited to:

A. Penalties

1. Penalty levels under non-extreme conditions
2. Reasons for scheduling variances
3. Information for shippers on scheduling variances
4. Trading of scheduling variances
5. SCT scheduling variances
6. Crediting of penalty revenues

B. Flexible Point Rights
1. Approval process for original requests for service
2. Approval process for release transactions with request for alternative primary points
3. Five-day waiting period
4. Effect of alternate primary points on original primary points
5. Termination of alternate points
6. Default provision for nominated quantities in excess of CD in overlapping segments
7. Point rights within 100-mile segments but outside the primary path

C. Imbalance Services
1. Information provided to shippers on a daily basis
2. Cost of imbalance management services
3. Imbalance netting and trading—operational impact areas
4. Delivery variance service
5. Third-party imbalance management services

D. OFOs
1. When an OFO will be used
2. Panhandle's powers under an OFO
3. Amount of notice

E. Segmentation
1. Areas in which segmentation is not operationally feasible

F. Discount Provisions
1. Extension of discounts to other points

The above schedule may be changed as circumstances warrant.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–29952 Filed 11–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 4678–019, 4679–022]

Power Authority of the State of New York; Notice of Availability of Final Environmental Assessment

November 17, 2000.

A final environmental assessment (FEA) is available for public review. The FEA was prepared for New York Power Authority's (licensee) application to operate the Crescent and Vischer Ferry Hydroelectric Projects in a run-of-river mode.

In summary, the FEA examines the environmental impacts of three alternatives for operating the Crescent and Vischer Ferry Projects: (1) licensee's proposed action: run-of-river operation; (2) licensee's initial proposed action: limited ponding; and (3) no-action. These alternatives are described in detail in the FEA.

The FEA recommends that the licensee operate the projects in a run-of-river mode in accordance with the licensee's proposed action alternative. The FEA concludes that implementation of this alternative would not constitute a major federal action significantly affecting the quality of the human environment.

This FEA was written by staff in the Office of Energy Projects (OEP). Copies of the FEA can be obtained by contacting the Commission's Public Reference Room at (202) 208–1371.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–29996 Filed 11–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

November 17, 2000.

a. *Type of filing:* Notice of Intent to File An Application for a New License.

b. *Project no.:* 289.

c. *Date filed:* November 3, 2000.

d. *Submitted by:* Louisville Gas and Electric Company—current licensee.

e. *Name of project:* Ohio Falls Hydroelectric Project.

f. *Location:* On the Ohio River in the City of Louisville, Jefferson County, Kentucky. The project is located at the U.S. Army Corps of Engineers' McAlpine Locks and Dam.

g. *Filed pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee contact:* Bill Bosta, Director, Louisville Gas and Electric Company, 220 West Main Street, P.O. Box 32010, Louisville, KY 40232 (502) 627–2359.

i. *FERC contact:* John Costello, *john.costello@ferc.fed.us*, (202) 219–2914.

j. *Effective date of current license:* September 1, 1981.

k. *Expiration date of current license:* November 10, 2005.

l. *Description of the project:* The project consists of the following existing facilities: (1) A powerhouse containing 8 generating units having a total installed capacity of 80,320 kW, located at the U.S. Corps of Engineers' McAlpine Locks and Dam; (2) a 632-foot-long, 26-foot-high concrete headworks section built integrally with the powerhouse; (3) a 0.9-mile-long, 69-kV transmission line; (4) an access road; (5) one half-mile-long railroad tracks; and (6) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by November 10, 2003.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–29949 Filed 11–22–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

November 17, 2000.

a. *Type of filing:* Notice of Intent To File an Application for a New License.

b. *Project No.:* 7387.

c. *Date filed:* October 23, 2000.

d. *Submitted by:* Erie Boulevard Hydro, LP—current licensee.

e. *Name of project:* Piercefield Hydroelectric Project.

f. *Location:* On the Raquette River near the towns of Piercefield and Altamount, in St. Lawrence and Franklin Counties, New York. The project does not occupy federal lands.

g. *Filed pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee contact:* Jerry L. Sabattis, Erie Boulevard Hydropower, LP, 225 Greenfield Parkway, Suite 201, Liverpool, NY 13088 (315) 413–2787.

i. *FERC contact:* Charles T. Raabe, charles.raabe@ferc.fed.us, (202) 219–2811.

j. *Effective date of current license:* November 1, 1955.

k. *Expiration date of current license:* October 31, 2005.

l. *Description of the project:* The project consists of the following existing facilities: (a) A dam in five sections comprising: (1) A 360-foot-long, 10-foot-high earthen dike along the right bank (north bank); (2) a 62.5-foot-long concrete sluice structure; (3) a 70-foot-long, 20-foot-high earthen dike having a concrete core wall; (4) a 118-foot-long stanchion type stop log spillway; and (5) a 294-foot-long, 22-foot-high concrete spillway with a crest elevation of 1,540.0 feet USGS surmounted by 2-foot-high flashboards; (b) a 140-foot-long, 45-foot-wide, 17-foot-deep concrete masonry forebay structure; (c) a reservoir having a surface area of 370

acres at a normal pool elevation of 1,542.0 feet USGS; (d) a powerhouse containing 3 generating units having a total installed capacity of 2,700 kW; (e) a 3.84-mile-long, 46-kV transmission line; and (f) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by October 31, 2003.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–29951 Filed 11–22–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6906–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork reduction Act (44 U.S.C.3501 *et seq.*), this document announces that the following Information Collection request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program, OMB Control Number 2060–0060, expiration date 11/30/00. This ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 26, 2000.

ADDRESSES: Send comments, referencing EPA ICR No. 0116.06 and OMB control No. 2060–0060, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460; and to the Office of information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 0116.06. For technical questions about the ICR, contact Chestine Payton at (202) 564–9328, fax (202) 565–2057. E-mail address: payton,chestine@epa.gov.

SUPPLEMENTARY INFORMATION:

Title: Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program, OMB Control Number 2060–0060, EPA ICR Number 0116.06 expiring 11/30/00. This is a request for extension of a currently approved collection.

Abstract: The Vehicle Compliance Programs Group (VCPG), Vehicle Programs and Compliance Division (VCPD) Office of Mobile Sources, used this information to ensure that the part to be certified actually performs as required. The information collected is the minimal necessary to ensure that the part to be certified performs as required. Without this information EPA would have no way to control and audit fraudulent or marginal submissions. Information is only collected when the part to be certified is tested, thus assuring a means of documenting that the part was properly designed. EPA would not be able to control the self-certification of parts and this could cause vehicles to fail emissions standards.

The information collected is part of the requirement of section 207(a) of the Clean Air Act, as described in section 40 CFR part 85, subpart V. This is a voluntary certification program and there is no requirement that any manufacturer participate.

The total estimated involvement of the aftermarket part industry (replacement and specialty parts) is two per year.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on August 2, 2000 (65 FR 47493); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 861 hours per response. EPA's burden estimate for this information collection is broken down into three parts: reporting, testing and recordkeeping. EPA estimates that the reporting burden will be 174 hours, testing 1,540 hours and annual recordkeeping 8 hours. The estimation of respondent burden in hours is based on Certification burden estimates for vehicle manufacturers compiled in the April 1985 Information Collection Report for the basic vehicle certification program. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Automotive manufacturers and builders of automotive aftermarket parts;

Estimated Number of Respondents: 2.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 1,722 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following address. Please refer to EPA ICR No. 0116.06 and OMB Control No. 2060–0060 in any correspondence.

Dated: November 8, 2000.

Oscar Morales, Director,

Collection Strategies Division.

[FR Doc. 00–30008 Filed 11–22–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6906–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Pesticide Active Ingredient (PAI) Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Pesticide Active Ingredient (PAI) Production, Part 63, Subpart MMM, OMB Number 2060–0370, expiration date 11/30/2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 26, 2000.

ADDRESSES: Send comments, referencing EPA ICR No. 1807.02 and OMB Control No. 2060–0370, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1807.02. For technical questions about the ICR contact Stephen Howie at 202–564–4146.

SUPPLEMENTARY INFORMATION:

Title: National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Pesticide Active Ingredient (PAI) Production (OMB Control Number 2060–0370, EPA ICR No. 1807.02, expiration date 11/30/2000). This is a request for extension of a currently approved collection.

Abstract: The Administrator has judged that the pollutants emitted from PAI production facilities cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health. Owners or operators of PAI production facilities to which this regulation applies must choose one of the compliance options described in the rule or install and monitor a specific control system that reduces HAP emissions to the compliance level. The respondents are subject to sections of subpart A of 40 CFR part 63 relating to NESHAP. These requirements include those associated with the applicability determination; the notification that the facility is subject to the rule; and the notification of testing (control device performance test and continuous monitoring system (CMS) performance evaluation); the results of performance testing and CMS performance evaluations; startup, shutdown, and malfunction reports; and semiannual or quarterly summary reports and/or excess emissions and CMS performance reports. In addition to the requirements of subpart A, many respondents are required to submit a precompliance plan and LDAR reports, and plants that wish to implement emissions averaging provisions must submit an emissions averaging plan.

Respondents electing to comply with the emission limit or emission reduction requirements for process vents, storage tanks, or wastewater must record the values of equipment operating parameters as specified in 40 CFR 63.1367 of the rule. If the owner or operator identifies any deviation resulting from a known cause for which no Federally-approved or promulgated exemption from an emission limitation or standard applies, the compliance report shall also include all records that the source is required to maintain that pertain to the periods during which such deviation occurred, as well as the following: the magnitude of each deviation; the reason for each deviation; a description of the corrective action taken for each deviation, including action taken to minimize each deviation and action taken to prevent recurrence; and a copy of all quality assurance activities performed on any element of the monitoring protocol.

Owners or operators of PAI production facilities subject to the rule must maintain a copy of all monitored equipment operating parameter values that demonstrate compliance with the standards. Records and reports must be retained for a total of 5 years (2 years at the site; the remaining 3 years records may be retained off-site). The files may be maintained on microfilm, on a computer or floppy disks, on magnetic tape disks, or on microfiche.

Since many of the facilities potentially affected by the NESHAP standards are currently subject to new source performance standards (NSPS), the standards include an exemption from the NSPS for those sources. That exemption eliminates a duplication of information collection requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on April 16, 2000 (65 FR 20813); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 143 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Pesticide Active Ingredient Production Facilities.

Estimated Number of Respondents: 84.

Frequency of Response: Semi-annually.

Estimated Total Annual Hour Burden: 53,752.

Estimated Total Annualized Capital, O&M Cost Burden: $2,235,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1807.02 and OMB Control No. 2060–0370 in any correspondence.

Dated: November 10, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–30009 Filed 11–22–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6906–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I), 40 CFR Part 63, Subpart R: OMB Control Number 2060–0325, expiration date February 28, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 26, 2000.

ADDRESSES: Send comments, referencing EPA ICR No. 1659.04 and OMB Control No. 2060–0325, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, N.W., Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1659.04. For technical questions about the ICR, contact Julie Tankersley at EPA by phone at (202) 564–7002, by E-Mail at Tankersley.Julie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Title: National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I), 40 CFR Part 63, Subpart R, OMB Control Number 2060–0325; EPA ICR No. 1659.04 expiration date February 28, 2001. This is a request for extension of a currently approved collection.

Abstract: This ICR contains record keeping and reporting requirements that are mandatory for compliance with 40 CFR part 63, subpart R. Effective enforcement of this rule is necessary due to the hazardous nature of benzene (a known human carcinogen) and the toxic nature of the other 10 Hazardous Air Pollutants (HAP) emitted from gasoline distribution facilities. In order to ensure compliance with the standards, adequate reporting and recordkeeping is necessary. This information enables the Agency to: (1) Identify the sources subject to the standard; (2) Ensure that leakage emissions from cargo tanks and process piping equipment components (both liquid and vapor) during loading are being minimized; (3) Ensure that emission control devices are being properly operated and maintained; and (4) Ensure that emissions from storage vessels are minimized and rim seal and fitting defects are repaired on a timely basis.

Specifically, the rule's reporting requirements that apply to both bulk gasoline terminals and pipeline breakout stations include initial notification; notification of compliance status; notification of construction/reconstruction; notification of anticipated startup; semiannual reports; and reporting of area source compliance. In addition, bulk gasoline terminals are required to provide notification of performance tests and on CMS evaluation. The rule's record keeping requirements that apply to both bulk gasoline terminals and pipeline breakout stations entail maintaining records of: equipment visual inspections; equipment leak data; storage tank seal inspections; startups/shutdowns/malfunctions; and area source status. In addition, bulk gasoline terminals are required to maintain records by filing cargo tank inspection records; updating cargo tank inspections; and by cross-checking the cargo tank inspection file.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on August 17, 2000 (65 FR 50196). No comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 62 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/operators of new/existing pipeline breakout stations or bulk gasoline terminals.

Estimated Number of Respondents: 263.

Frequency of Response: Semi-annually and on occasion.

Estimated Total Annual Hour Burden: 32,575 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $851,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1659.04 and OMB Control No. 2060–0325 in any correspondence.

Dated: November 16, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–30010 Filed 11–22–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6906–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Standards of Performance for Stationary Gas Turbines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been

forwarded to the Office of Management and Budget (OMB) for review and approval: Standards of Performance for Stationary Gas Turbines, (Subpart GG), OMB No. 2060–0028, expiration date January 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 26, 2000.

ADDRESSES: Send comments, referencing EPA ICR No. 1071.07 and OMB Control No. 2060–0028 to the following address: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1071.07. For technical questions about the ICR contact Chris Oh at (202) 564–7004.

SUPPLEMENTARY INFORMATION: *Title:* Standards of Performance for Stationary Gas Turbines (Subpart GG), (OMB Control No. 2060–0028; EPA ICR No. 1071.07) expires January 31, 2001. This is a request for an extension of a currently approved collection.

Abstract: Owners and operators of stationary gas turbines subject to the NSPS for subpart GG must submit a one-time-only notification of construction/reconstruction, anticipated and actual startup date, initial performance test date, physical or operational changes, and demonstration of a continuous monitoring system. They also must provide a report on initial performance test results, monitoring results and excess emissions. Records must be maintained of startups, shutdowns, malfunctions, periods when the continuous monitoring system is inoperative, sulfur and nitrogen content of the fuel, fuel to water ratio, rate of fuel consumption, and ambient conditions.

The required notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. Performance test reports are needed as these are the Agency's records of a source's initial capability to comply with the emission standard and serve as a record of the operating conditions under which compliance was achieved. The monitoring and excess emissions reports are used for problem identification, as a check on source operation and maintenance, and for compliance determination. The information collected from recordkeeping and reporting requirements is used for targeting inspections and other uses in the compliance and enforcement program.

Responses to these information collections are mandatory, per section 114(a) of the Clean Air Act. The required information consists of emissions data and other information that has been determined not to be confidential. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 4000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

An agency may not conduct or sponsor, and a person is not required to respond to, a request for collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on 08/17/00 (65 FR 50196); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 56 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/Operators of stationary gas turbines.

Estimated Number of Respondents: 775.

Frequency of Response: Semiannual.

Estimated Total Annual Hour Burden: 93,439.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1071.07 and OMB Control No. 2060–0028 in any correspondence.

Dated: November 16, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–30011 Filed 11–22–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6613–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 06, 2000 Through November 10, 2000 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated April 14, 2000 (65 FR 20157).

Draft EISs

ERP No. D–BOR–G39033–NM

Rating EC2, Rio Grande and Low Flow Conveyance Channel Modifications Channel System, From Rio Grande Valley between San Acacia Diversion Dam, NM and the Narrows of Elephant Butte Reservoir, NM.

Summary: EPA expressed environmental concerns regarding preferred alternative identification, soils information, ground water depths, and habitat suitability. EPA requested that the final document provide additional information on these issues.

ERP No. DS–BLM–K67011–NV

Rating EC2, Betze-Post Project, Updated Information, Dewatering Operations and a Proposed Pipeline, Elko and Eureka Counties, NV.

Summary: EPA expressed concerns regarding the project's direct and cumulative impacts to biological resources and recommended consideration of an alternative to mitigate impacts to springs and streams. EPA also requested additional information regarding ecological risk, cumulative impacts and mitigation measures.

ERP No. DS–COE–E36074–00

Rating EU3, Yazoo Basin Reformulation Study, Supplement No: 1 To the 1982 Yazoo Area Pump Project, Flood Control, Mississippi River and Tributaries, Yazoo Basin, MS and LA.

Summary: EPA raised significant objections with the recommended pumping plan based on the potential for large-scale adverse impacts to wetlands and non-compliance with Section 404 of the Clean Water Act. EPA also raised objections over the lack of adequate assessment of the scope/significance of environmental impacts, and the flawed procedures/incorrect assumptions used throughout the document.

Final EISs

ERP No. F–AFS–J65302–UT

South Manti Timber Salvage, To address Ecological and Economic Values affected by Spruce Beetle Activity in the South Manti Project, Manti-La National Forest, Ferron-Price and Sanpete Ranger Districts, Sanpete and Sevier Counties, UT.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65300–ID

Goose Creek Watershed Project, Harvesting Timber and Improve Watershed, Payette National Forest, New Meadows Ranger District, Adams County, ID.

Summary: EPA continues to have concerns about potential impacts from road activities and harvesting to 303(d) listed Brundage Reservoir and Little Salmon River. EPA recommend that the Forest Service complete analyses prescribed in the May 1999 ''Forest Service and Bureau of Land Management Protocol for Addressing 303(d) ''Listed Waters'' for the two impaired waters and make this information available to the decisionmaker.

ERP No. F–COE–K36051–AZ

Rio de Flag Flood Control Study, Improvement Flood Protection, City of Flagstaff, Coconino County, AZ.

Summary: Nor formal comment letter was sent to the preparing agency.

ERP No. F–COE–K36131–CA

Lower Mission Creek Flood Control Project, Proposed Plan for Flood Control, City of Santa Barbara, Santa Barbara County, CA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–COE–L39056–WA

Programmatic EIS—Green/Duwamish River Basin Restoration Program, Capitol Improvement Type Program and Ecological Health, King County, WA.

Summary: No formal comment letter was sent to the preparing agency.

Dated: November 21, 2000.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00–30042 Filed 11–22–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6612–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/oeca/ofa.* Weekly receipt of Environmental Impact Statements Filed November 13, 2000 Through November 17, 2000 Pursuant to 40 CFR 1506.9.

EIS No. 000391, DRAFT EIS, FTA, MN, Northstar Transportation Corridor Project, Improvements from downtown Minneapolis to the St. Cloud area along Trunk Highway (TH) 10/47 and the Burlington Northern Santa Fe (BNSF) Railroad Transcontinental Route, Connecting the Hiawatha Light Rail Transit (LRT) Line at a Multi-Modal Station, Minneapolis/St. Paul (MSP) International, Due: January 08, 2001, Contact: Paul Fish (312) 353–2865.

EIS No. 000392, DRAFT EIS, AFS, OR, South Bend Weigh and Safety Station Establishment, Special Use Permit for Construction, Maintenance and Operation, Deschute National Forest Lands along US 97 near the Newberry National Volcanic Monument, Deschutes County, OR, Due: January 08, 2001, Contact: Chris Mickle (541) 383–4769.

EIS No. 000393, DRAFT EIS, BLM, OR, Rogue National Wild and Scenic River Hellgate Recreation Area (Applegate River to Grave Creek) Management Plan, Implementation, Badford District, Ephine County, OR, Due: February 24, 2001, Contact: Cori Cooper (541) 618–2428.

EIS No. 000394, FINAL SUPPLEMENT, NPS, CA, Yosemite National Park General Management Plan, Implementation, Tuolumne County, CA, Due: December 26, 2000, Contact: Alan Schmierer (415) 427–1441.

EIS No. 000395, FINAL EIS, AFS, MT, ID, Yellowstone Pipeline Proposed Changes to Existing Pipeline between Thompson Fall and Kingston, Sanders County, MT and Shoshone County, ID, Due: December 26, 2000, Contact: Terry Egenhoff (406) 329–3601.

EIS No. 000396, DRAFT EIS, AFS, OR, Mill Creek Timber Sales and Related Activities, To Implement Ecosystem Management Activities, Prospect Ranger District, Rogue River National Forest, Jackson County, OR, Due: January 16, 2001, Contact: Joel T. King (541) 560–3400.

EIS No. 000397, DRAFT SUPPLEMENT, COE, IL, Sugar Creek Municipal Water Supply, Updated Information, Proposed New 1172 Acre Water Supply Reservoir, Construction, COE Section 404 Permit Issuance, City of Marion, Williamson and Johnson Counties, IL, Due: January 08, 2001, Contact: Ronny Sadri (502) 315–6681.

EIS No. 000398, DRAFT EIS, AFS, ID, UT, OR, Boise National Forest, Payette National Forest and Sawtooth National Forest, Forest Plan Revision, Implementation, Southwest Idaho Ecogroup several counties, ID, Malhaur County, OR and Box Elder County, UT, Due: March 15, 2001, Contact: David Rittenhouse (208) 373–4100.

EIS No. 000399, DRAFT EIS, FAA, IL, WI, IN, Chicago Terminal Airspace Project (CTAP), For Proposed Air Traffic Control Procedures and Airspace Modification for Aircraft Operating To/From the Chicago Region, Including Chicago O'Hare International Airport, Chicago Midway Airport, Milwaukee Mitchell International Airport, IL, IN and WI, Due: January 08, 2001, Contact: Annette Davis (847) 294–8091.

EIS No. 000400, DRAFT SUPPLEMENT, NOA, ME, VT, CT, NH, MA, RI, Federal Lobster Management in the Exclusive Economic Service, Implementation, American Lobster Fishery Management Plan, NY, NH and MA, Due: January 08, 2001, Contact: Penelope D. Dalton (301) 713–2239.

EIS No. 000401, DRAFT EIS, DOE, SC, Savannah River Site, High-Level Waste

Tank Closure (DOE/EIS–0303D), Implementation, Industrial Wastewater Closure Plan for the F and H-Area High-Level Waste Tank Systems, Aiken County, SC, Due: January 23, 2001, Contact: Andrew R. Grainger (800) 881–7292.

EIS No. 000402, FINAL EIS, COE, IL, Hunter Lake New Supplemental Water Supply Reservoir, Construction, City of Springfield Application for Permit, Sangamon County, IL, Due: December 26, 2000, Contact: Charlene Carmack (309) 794–5570.

EIS No. 000403, FINAL EIS, COE, NE, Western Sarpy/Clear Creek Flood Reduction Study Including Environmental Restoration Component, Lower Platte River and Tributaries, Saunders and Sarpy Counties, NE, Due: December 26, 2000, Contact: Nelson S. Carpenter (402) 221–4450.

EIS No. 000404, FINAL SUPPLEMENT, AFS, CA, WA, OR, Northern Spotted Owl Management Plan, Updated Information for Amendment to the Survey and Manage, Protection Buffer and Other Mitigating Measures, Standards and Guidelines (to the Northwest Forest Plan), Late-Successional and Old Growth Forest Related Species Within the Range of the Northern Spotted Owl, OR, WA and CA, Due: December 26, 2000, Contact: Dick Prather (503) 808–2165.

EIS No. 000405, FINAL EIS, COE, CA, Whitewater River Basin (Thousand Palms) Flood Control Project, Construction of Facilities to Provide Flood Protection, Coachella Valley, Riverside County, CA, Due: December 26, 2000, Contact: Hayley Lovan (213) 452–3863.

EIS No. 000406, FINAL EIS, FHW, WA, NE 8TH/I–405 Interchange Project, Construction, Funding, Right-of-Way Use Permit and NPDES Stormwater Permit, City of Bellevue, King County, WA, Due: December 26, 2000, Contact: Gene Fong (360) 753–9413.

Amended Notices

EIS No. 000331, DRAFT SUPPLEMENT, AFS, WA, Huckleberry Land Exchange Consolidate Ownership and Enhance Future Conservation and Management, Updated Information, Proposal to Exchange Land and Mineral Estates, Federal Land and Non Federal Land, Mt. Baker-Snoqualmie National Forest, Skagit Snohomish, King, Pierce, Kittitas, and Lewis Counties, WA Revision of FR notice published on 09/22/2000: CEQ Comment Date Extended from 11/13/2000 to 11/27/2000.

Dated: November 20, 2000.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00–30043 Filed 11–22–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6905–4]

Federal Information Processing Standards (FIPS); Extension of Waiver

ACTION: Notice of FIPS waiver.

SUMMARY: The Chief Information Officer for the Environmental Protection Agency (EPA) has granted an extension to the waiver (published October 1, 1998, at 63 FR 52693) authorizing the Agency to continue to use the cryptographic features in the commercial software application, Travel Manager Plus. The software's cryptographic features do not comply with Federal Information Processing Standards: 46–3 Data Encryption Standard (DES); 140–1, Security Requirements for Cryptographic Modules; 180–1, Secure Hash Standard; and 186–2, Digital Signature Standard. This waiver is being issued pursuant to the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 1441.

DATES: This waiver extension takes effect on November 24, 2000 and expires on January 1, 2004.

FOR FURTHER INFORMATION CONTACT: Mark Day, Director, Office of Technology, Operations, and Planning, Office of Environmental Information, 401 M Street SW, Mail Code 2831, Washington, DC 20460, 202–260–4465.

SUPPLEMENTARY INFORMATION: Federal Information Processing Standards (FIPS) 46–3 Data Encryption Standard (DES); 140–1, Security Requirements for Cryptographic Modules; 180–1, Secure Hash Standard; and 186–2, Digital Signature Standard publications establish standards for generating digital signatures (which can be used to verify authenticity) and for the encryption of sensitive information transmitted and stored electronically. As authorized by 40 U.S.C. 1441(c), these FIPS publications permit Federal agencies to waive them under certain circumstances: A waiver may be granted if (1) compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system; or (2) compliance with a standard would cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Travel Manager Plus is commercial off the shelf (COTS) software that is on the General Services Administration (GSA) schedule. The application complies with a broad range of governmentwide requirements including Travel System Requirements issued by the Joint Financial Management Improvement Program.

EPA plans to deploy Travel Manager Plus agency-wide so that the process of reimbursing EPA employees can be fully automated. In addition to gaining efficiencies, by dramatically shortening the reimbursement process cycle, the Travel Manager Plus software will help ensure that the Agency complies with new legal requirements that travelers be reimbursed promptly.

The EPA Chief Information Officer has granted a waiver from the four FIPS cited above to enable EPA to continue to use the built-in cryptographic features in Travel Manager Plus. EPA determined that the cryptographic protection embedded in Travel Manager Plus provides an appropriate level of security to protect the unclassified information used, communicated, and stored on the system.

If the Agency were to purchase and maintain FIPS-compliant applications for its automated travel reimbursement system, the additional costs would be prohibitive. By relying on the FIPS non-compliant cryptographic features embedded in Travel Manager Plus, EPA will be able to achieve a fully automated travel reimbursement system that has adequate and cost-effective security.

In accordance with FIPS requirements, notice of this waiver has been sent to the National Institute of Standards and Technology, the Committee on Government Reform and Oversight of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

Dated: November 7, 2000.

Edwin A. Levine,

Interim Chief Information Officer.

[FR Doc. 00–29877 Filed 11–22–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00689; FRL–6757–6]

State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Pesticide Operations & Management; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Pesticide Operations & Management will hold a 2–day meeting, beginning on December 4, 2000, and ending on December 5, 2000. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, December 4, 2000 from 8:30 a.m. to 5 p.m. to Friday, December 5, 2000, from 8:30 a.m. to 12:00 noon.

ADDRESSES: The meeting will be held at The Doubletree Hotel, 300 Army Navy Drive, Arlington - Crystal City, VA.

FOR FURTHER INFORMATION CONTACT: Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1249; telephone number: (802) 472–6956; fax: (802) 472–6957; e-mail address: aapco@plainfield.bypass.com or, Georgia A. McDuffie, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: McDuffie.Georgia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to all parties interested in SFIREG's information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process are invited and encouraged to attend the meetings and participate as appropriate. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1239.

III. Tentative Agenda:

1. USDA-APHIS Wildlife Services' Proposal for Specific Pesticide Certification and Training Program
2. Worker Protection Standard Activities Update
3. National Pesticide Data Improvement Workgroup Report
4. Management of Biotech Pesticide Products
5. SFIREG Issue Paper Status Report
6. Regional Reports
7. Committee Reports and Introductions of Issue Papers
8. Other Topics as appropriate

List of Subjects

Environmental protection.

Dated: November 20, 2000.

Jay Ellenberger,

Acting Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 00–30092 Filed 11–21–00; 12:53 pm]

BILLING CODE 6560–50–S

OFFICE OF NATIONAL DRUG CONTROL POLICY

Renewal of Charter and Meeting of Drug Control Research, Data, and Evaluation Committee

AGENCY: Office of National Drug Control Policy.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 and 41 CFR 101–6.1013, the Office of National Drug Control Policy renewed the charter of the Drug Control Research, Data, and Evaluation Committee on October 16, 2000. The renewed charter is available for viewing through the Library of Congress and the United States General Services Administration.

A meeting of the Drug Control Research, Data, and Evaluation Committee will be held on December 7, 2000 at the Office of National Drug Control Policy in the 5th Floor Conference Room, 750 17th Street NW, 7th Floor, Washington, DC. The meeting will commence at 9:00 a.m. on Thursday December 7th and adjourn at 4:00 p.m.

The agenda will include: The National Research Council Study of ONDCP's Data and Research for Policy on Illegal Drugs; the National Drug Control Strategy's Performance Measures of Effectiveness; the Medicaid IMD Exclusion; Substance Abuse Treatment Parity; Prevention Principles; Neuroimaging and Treatment Technology; and Using technology to combat drug-related crime. There will be an opportunity for public comment from 11:30 a.m. until 12:00 noon on Thursday, December 7, 2000.

FOR FURTHER INFORMATION CONTACT: Please direct any questions to Linda V. Priebe, Attorney-Advisor, (202) 395–6622, Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20503.

Linda V. Priebe,

Attorney-Advisor.

[FR Doc. 00–29986 Filed 11–22–00; 8:45 am]

BILLING CODE 3180–02–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices; Meeting

AGENCY: Federal Election Commission

* * * * *

DATE AND TIME: Tuesday, November 28, 2000 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, November 30, 2000 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor)

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Draft Advisory Opinion 2000–32; U.S. Representative Matthew G. Martinez.

Draft Advisory Opinion 2000–35: Green Party of Washington State by Theodore Schlagel, Treasurer.

Final Rules and Explanation and Justification on General Public Political

Communications Coordinated with Candidates, and Independent Expenditures.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron. Harris, Press Officer; Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 00–30091 Filed 11–21–00; 11:42 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 18, 2000.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Arison Holdings (1998) Ltd., Tel Aviv, Israel; to become a bank holding company by acquiring 20.74 percent of the voting shares of Signature Bank, New York, New York (in formation).

B. Federal Reserve Bank of Cleveland(Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Steel Valley Bancorp, St. Clairsville, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of Steel Valley Bank, N.A., Dillonvale, Ohio.

C. Federal Reserve Bank of Chicago(Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Woodford Bancshares, Inc., Monroe, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Woodford State Bank, Woodford, Wisconsin.

D. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Mountain West Financial Corporation, Helena, Montana; to acquire between 25.2 percent and 50.01 percent of the voting shares of Bankwest Financial, Inc., Kalispell, Montana, and thereby indirectly acquire voting shares of BankWest, National Association, Kalispell, Montana.

E. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Central Financial Corporation, Hutchinson, Kansas; to acquire 8.80 percent of the voting shares of TTAC Corp., Manhattan, Kansas, and thereby indirectly acquire Community First National Bank, Manhattan, Kansas.

Board of Governors of the Federal Reserve System, November 17, 2000.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 00–29929 Filed 11–22–00; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 19817 (j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors/ Interested persons may express their views in writing to the Reserve bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 8, 2000.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervision) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Malcom Monroe Jett, Christine Rojas Jett, Elizabeth Devlin Jett, Ellen Louise Jett–Mills, David Devlin Jett, all of Lexington, Kentucky; to acquire voting shares of Bluegrass Bancshares, Inc., Lexington, Kentucky, and thereby indirectly acquire voting shares of The Bank of the Bluegrass & Trust Company, Lexington, Kentucky.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. David Gene and Susan Holden McCurry, Coralville, Iowa; to acquire additional voting shares of Washington Bancorp., Washington, Iowa, and thereby indirectly acquire additional voting shares of Rubio Savings Bank of Brighton, Brighton, Iowa.

C. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. David Bradley Erickson, Lakeland Shores, Minnesota; to acquire additional voting shares of Freedom Bancorporation, Inc., Hudson, Wisconsin, and thereby indirectly acquire additional voting shares of Lake Area Bank, Lindstrom, Minnesota.

Board of Governors of the Federal Reserve System, November 17, 2000.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 00–29930 Filed 11–22–00; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC Advisory Committee on HIV and STD Prevention: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: CDC Advisory Committee on HIV and STD Prevention.

Times and Dates: 8:30 a.m.-5 p.m., December 14, 2000; 8:30 a.m.-3 p.m., December 15, 2000.

Place: Corporate Square Office Park, Corporate Square

Boulevard, Building 8, 1st Floor Conference Room, Atlanta,

Georgia 30329.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people.

Purpose: This Committee is charged with advising the Director, CDC, regarding objectives, strategies, and priorities for HIV and STD prevention efforts including maintaining surveillance of HIV infection, AIDS, and STDs, the epidemiologic and laboratory study of HIV/AIDS and STDs, information/education and risk reduction activities designed to prevent the spread of HIV and STDs, and other preventive measures that become available.

Matters to be Discussed: Agenda items include issues pertaining to (1) national HIV prevention plan, (2) national syphilis elimination efforts, (3) recent trends in STD and HIV Morbidity and Risk Behaviors among MSM, and (4) issues pertaining to the IOM report on HIV Prevention. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Paulette Ford, Committee Management Specialist, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE, Mailstop E–07, Atlanta, Georgia 30333. Telephone 404/639–8008, fax 404/639–8600, e-mail pbf7@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Julia M. Fuller,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–30018 Filed 11–22–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee meeting.

Name: National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect (NTFFASFAE).

Times and Dates: 9 a.m.–5 p.m., December 14, 2000; 9 a.m.–3 p.m., December 15, 2000.

Place: Doubletree Hotel Atlanta-Buckhead, 3342 Peachtree Road, NE, Atlanta, Georgia 30326, telephone 404/231–1234; fax 404/231–3112.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The Secretary is authorized by the Public Health Service Act, Section 399G, (42 U.S.C. 280f, as added by Pub. L. 105–392) to establish a National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect to: (1) Foster coordination among all governmental agencies, academic bodies and community groups that conduct or support Fetal Alcohol Syndrome (FAS) and Fetal Alcohol Effect (FAE) research, programs and surveillance; and (2) to otherwise meet the general needs of populations actually or potentially impacted by FAS and FAE.

Matters To Be Discussed: This is the initial meeting of the National Task Force on Fetal Alcohol Syndrome (FAS) and Fetal Alcohol Effect (FAE). The Task Force will convene to discuss the development of defining a national research agenda on all aspects of public health research and program development regarding primary and secondary prevention activities in the area of FAS and FAE.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: R. Louise Floyd, DSN, RN, Executive Secretary, NTFFASFAE, National Center for Environmental Health, CDC, 4700 Buford Highway, NE, (F–49), Atlanta, Georgia 30333, telephone 770/488–7372, fax 770/488–7361.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the CDC and ATSDR.

Julia M. Fuller,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–29959 Filed 11–22–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: AFIA IDA In-depth Participant Interview.

OMB No.: New Collection.

Description: Part of a Congressionally mandated evaluation of demonstrations carried out under AFIA to address the effects on savings behavior, differential savings rates, homeownership, education and self-employment. To identify lessons to be learned and whether the program should be made permanent.

Respondents: AFIA IDA Demonstration Participants.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Participant Survey	720	1	40 minutes .67 hours	483
Estimated Total Annual Burden Hours				483

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collections techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 20, 2000.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 00–29993 Filed 11–22–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: The OCSE—157 Child Support Enforcement Annual Data Report.

OMB No.: 0970–0177.

Description: The information obtained from this form will be used to report Child Support Enforcement activities to the Congress as required by law, to complete incentive measure and performance indicators utilized in the program, and to assist the Office of Child Support Enforcement in monitoring and evaluation State Child Support Enforcement programs.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
OCSE–157	54	1	4	216
Estimated Total Annual Burden Hours:				216

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 20, 2000.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 00–29994 Filed 11–22–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: TANF High Performance Bonus Report for Fiscal Year 2001.

OMB No.: 0970–0180.

Description: Public Law 104–93 (PRWORA) established the Temporary Assistance for Needy Families (TANF) Program. It also included provisions for rewarding States that attain the highest levels of success in achieving the legislative goals of that program. The purpose of this collection is to obtain data upon which to base the computation for measuring State performance in meeting those goals and allocating the bonus grant funds appropriated under the law. States will not be required to submit this information unless they elect to compete for the bonus grants. Respondents, therefore, may include any of the 50 States, the District of Columbia, and the U.S. Territories of Guam, Puerto Rico, and the Virgin Islands. We are requesting extension of this form through May 31, 2002.

Respondents: States and Territorial Government.

Annual Burden Estimates: 8,640.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–200	54	4	40	8,640

Estimated Total Annual Burden Hours: 8,640.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Desk Officer for ACF.

Dated: November 20, 2000.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 00–29995 Filed 11–22–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1609]

Digoxin Products for Oral Use; Reaffirmation of New Drug Status and Conditions for Marketing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is reaffirming its determination that digoxin products for oral use (tablets and elixir) are new drugs and announcing the conditions for marketing the products. Manufacturers who wish to begin to market or to continue marketing digoxin products for oral use must submit new drug applications (NDA's) or abbreviated new drug applications (ANDA's). Elsewhere in this issue of the **Federal Register**, FDA is publishing a proposed rule to revoke the regulations that establishes conditions for marketing digoxin products for oral use.

DATES: This notice is effective November 24, 2000.

ADDRESSES: All communications in response to this notice should be identified with Docket No. 00N–1609 and directed to the appropriate office listed as follows:

Applications under section 505(j) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(j)): Office of Generic Drugs, Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., rm. E150, Rockville, MD 20855.

Applications under section 505(b) of the act: Central Document Room, Center for Drug Evaluation and Research, Food and Drug Administration, 12229 Wilkins Ave., Rockville, MD 20852.

Requests for an opinion on the applicability of this notice to a specific product: Division of Prescription Drug Compliance and Surveillance (HFD–330), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

Digoxin is a member of a group of drugs known as cardiac glycosides. The cardiac or digitalis glycosides are a closely related group of drugs having in common specific effects on the myocardium. These drugs are found in several plants and animals. The term digitalis is used to designate the whole group.

Since ancient times, squill (*Urginea* (Scilla) *maritima*) and foxglove (*Digitalis purpurea*) and other natural sources of cardiac glycosides have been used for their effects on the heart. Digoxin, which is extracted from the leaves of *Digitalis lanata*, was reportedly discovered and developed in 1930 at the Wellcome Chemical Works at Dartford. According to Burroughs Wellcome (now Glaxo Wellcome), the company has manufactured and marketed a digoxin product in the United States since 1934.

Digoxin has been used in the treatment of certain cardiac disorders for many years and labeled for use in heart failure, atrial fibrillation, atrial flutter, and paroxysmal atrial tachycardia. Digoxin is available for oral and intravenous administration.

Digoxin products for parenteral use and digoxin solution in capsules have previously been classified as new drugs (July 27, 1972, and July 26, 1982, respectively) and are subjects of approved applications. This notice addresses digoxin tablets and elixir.

Because of bioavailability problems found to exist with digoxin tablets, FDA has sought, over the years, to provide a systematic regulatory approach to ensure the uniformity of all marketed, oral digoxin products. Since 1968, digoxin tablets (and related drugs) have been covered by a number of compliance programs.

In April 1970, FDA began a program to systematically test marketed lots of digoxin tablets. FDA took this action after the agency became aware of an apparent potency problem with this cardiac glycoside. As a result of this testing program, from April to November 1970, there were 79 recalls of digoxin products. In October 1970, FDA instituted a voluntary certification program in which participating manufacturers agreed not to release new lots of digoxin tablets until samples of the lots were tested by FDA and found to meet the United States Pharmacopeia (USP) requirements for potency and content uniformity.

Later, studies showed evidence of clinically significant differences in bioavailability between some batches of digoxin tablets made by different manufacturers, and even between some batches made by the same manufacturer. Because of these problems and because available data showed a general correlation between bioavailability and dissolution, the USP monograph for digoxin tablets was revised to include a requirement for dissolution.

In the **Federal Register** of January 22, 1974 (39 FR 2471), FDA issued a regulation (21 CFR 130.51; now § 310.500 (21 CFR 310.500)) establishing conditions for marketing digoxin products for oral use (tablets and elixir). The regulation: (1) Declared all digoxin products for oral use (tablets and elixir) to be new drugs, (2) required

submission of ANDA's and bioavailability tests for all oral digoxin products, (3) required a mandatory FDA certification program for digoxin tablets based on dissolution testing by the National Center for Drug Analysis, (4) required a recall of any previously marketed batch of digoxin tablets found to fail USP dissolution specifications, and (5) set forth a labeling requirement for all oral digoxin products. The regulation announced the agency's intentions to initiate procedures to monitor digoxin product formulations to ensure that products requiring reformulations complied with in vitro test requirements and possessed uniform batch-to-batch bioavailability.

Because of the narrow margin between therapeutic and toxic levels of digoxin and the potential for serious risk to cardiac patients using digoxin products that may vary in bioavailability, the agency determined that immediate implementation of the corrective procedures detailed in the regulation was necessary and made § 310.500 effective on the date of publication in the **Federal Register**. Even though the regulation was effective immediately, FDA accepted comments on § 310.500 for 30 days, until February 21, 1974.

As a result of the comments submitted, FDA published notices in the **Federal Register** of March 8, 1974 (39 FR 9184 and 9219), that stayed the time for submission of ANDA's, stayed the requirement that labeling of digoxin products conform to § 310.500(e), and announced a public meeting to discuss the labeling of digoxin. The notices stated that the stay for submission of ANDA's would be lifted 30 days after a final decision on labeling revisions had been reached.

The submitted comments concerning the labeling requirements were reviewed by the agency's Cardiovascular and Renal Advisory Committee and discussed at a public meeting. Later, FDA published a proposed regulation in the **Federal Register** of April 28, 1976 (41 FR 17755), to revise the labeling for digoxin products set out in § 310.500(e). FDA also proposed to lift the stay only insofar as it affected the labeling requirement. The agency believed that revised labeling was necessary because the labeling then being used for digoxin tablets contained dosage information suitable for the older, less bioavailable formulations that the agency had removed from the market through the digoxin certification program. Continued use of such older labeling constituted a potential health hazard. The agency concluded that revision of the labeling was necessary as soon as practicable to protect the public health. Revisions were needed to correct dosage and other recommendations for use and warn against the use of such products in the treatment of obesity.

FDA published a final regulation in the **Federal Register** of September 30, 1976 (41 FR 43135), that amended § 310.500(e) by revising the required labeling for digoxin products for oral use. The rule lifted the stay for revised labeling. The requirement for submission of ANDA's was stayed pending resolution of the agency's ANDA policy.

This notice reaffirms FDA's determination of new drug status for digoxin products for oral use and announces the conditions for marketing the products.

II. Legal Status

Digoxin products for oral use, as set forth in § 310.500, are new drugs as defined in section 201(p) of the act (21 U.S.C. 321(p)), and subject to the requirements of section 505 of the act. As discussed above, FDA based its determination of new drug status on new information that emerged about the bioavailability of digoxin products for oral use. Studies had shown significant variation in bioavailability of the products that occurred in batches from a single manufacturer as well as in batches produced by different manufacturers. Because variations in bioavailability can adversely affect the safety and effectiveness of the products, FDA concluded that the products could not be considered generally recognized as safe and effective and are new drugs requiring approved applications for marketing.

At the time that § 310.500 was published, FDA had not approved any NDA's for digoxin products for oral use. Since FDA stayed the requirement in § 310.500 for submission of ANDA's, FDA has regulated digoxin products for oral use under the remaining requirements in § 310.500.

In September 1993, Glaxo Wellcome (then Burroughs Wellcome) submitted to the agency an NDA (NDA 20–405) for Lanoxin (digoxin) Tablets under section 505(b) of the act. The submission included safety and effectiveness data on the drug product. In addition to published studies from the literature, the submission included two original studies sponsored by Glaxo Wellcome. These were double-blind, placebo-controlled studies of Lanoxin Tablets in treating congestive heart failure patients taking angiotensin converting enzyme (ACE) inhibitors and/or diuretics.

Based on its review of NDA 20–405 for Lanoxin Tablets, FDA concluded that the application was approvable. The agency determined that the issue of labeling, including appropriate indications, for the drug product should be presented to the Cardiovascular and Renal Drugs Advisory Committee. During this time, the agency began a systematic review of the labeling for cardiac drugs in general.

In May 1996, the advisory committee addressed the issue of labeling for Lanoxin (digoxin) Tablets. The committee recommended that digoxin be indicated for resting and ambulatory heart rate control in atrial fibrillation and that use in atrial flutter be excluded. The committee recommended that the indication for heart failure should state that most clinical trial data came from trials where digoxin was used in combination with diuretics and ACE inhibitors. The committee also considered preliminary results of The Digitalis Investigation Group (DIG) clinical trial conducted by the National Heart, Lung, and Blood Institute of the National Institutes of Health and the Department of Veterans Affairs Cooperative Studies Program. The DIG trial was a randomized, double-blind, placebo-controlled multicenter trial to evaluate the effects of digoxin (Lanoxin) on mortality from any cause and on hospitalization for heart failure over a 3- to 5-year period in patients with heart failure and normal sinus rhythm. The committee recommended that the final results of the DIG trial be submitted to the Lanoxin Tablets NDA and be incorporated into the labeling.

Glaxo Wellcome submitted the results of the DIG trial to the agency in April 1997. The results of the trial showed that digoxin did not affect mortality adversely.

Based on the review of NDA 20–405 for Lanoxin Tablets and the recommendations of the Cardiovascular and Renal Drugs Advisory Committee, FDA approved NDA 20–405 for the following indications:

Heart Failure: LANOXIN is indicated for the treatment of mild to moderate heart failure. LANOXIN increases left ventricular ejection fraction and improves heart failure symptoms as evidenced by exercise capacity and heart failure-related hospitalizations and emergency care, while having no effect on mortality. Where possible, LANOXIN should be used with a diuretic and an angiotensin-converting enzyme inhibitor, but an optimal order for starting these three drugs cannot be specified. [Glaxo Wellcome received 3 years of exclusivity for this indication.]

Atrial Fibrillation: LANOXIN is indicated for the control of ventricular

response rate in patients with chronic atrial fibrillation.

Because of the approval of NDA 20–405, digoxin tablets are now eligible for ANDA's under section 505 of the act. Therefore, by this notice, FDA is lifting the stay for submitting ANDA's for digoxin products for oral use.

This notice reaffirms FDA's previous determination that digoxin products for oral use are new drugs requiring approved applications for marketing. Because the new drug status of digoxin has already been established by notice-and-comment rulemaking, the agency is not providing a formal procedure for the submission of claims that a particular digoxin product for oral use is not subject to the new drug provision of the act. (Cf. 62 FR 43535, August 14, 1997 (oral levothyroxine sodium; determination of new drug status).)

III. Conditions for Approval and Marketing

On September 30, 1997, FDA approved NDA 20–405 for Lanoxin Tablets (62.5, 125, 187.5, 250, 375, and 500 micrograms) held by Glaxo Wellcome Inc. for the indications listed above.

Approval of an NDA under section 505(b) of the act and § 314.50 (21 CFR 314.50) or an ANDA under section 505(j) of the act and § 314.94 (21 CFR 314.94) is required as a condition for marketing all digoxin products for oral use. Such an ANDA should use Glaxo's NDA 20–405 as the reference listed drug.

Elsewhere in this issue of the **Federal Register**, FDA is publishing a proposed rule to revoke § 310.500, thus eliminating the conditions for marketing digoxin products for oral use established by that regulation.

Inquiries regarding procedures for obtaining approval of NDA's should be directed to the Division of Cardio-Renal Drug Products (HFD–110), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20857, 301–594–5300.

Inquiries regarding procedures for obtaining approval of ANDA's should be directed to the Office of Generic Drugs (HFD–600), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, Maryland 20855, 301–827–5845.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505 (21 U.S.C. 352, 355).

Dated: November 15, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–29998 Filed 11–22–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–2118–CN]

Medicare, Medicaid, and CLIA Programs; Continuance of the Approval of COLA as a CLIA Accreditation Organization; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction notice.

SUMMARY: In the October 31, 2000 issue of the **Federal Register** (65 FR 64966), we published a notice announcing the continued approval of COLA (formerly the Commission on Office Laboratory Accreditation) as an accreditation organization for laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program. This document corrects a technical error that appeared in that document.

EFFECTIVE DATE: The notice published on October 31, 2000 (64 FR 64966) is effective for the period October 31, 2000 through December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Val Coppola, (410) 786–3531.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 00–27956 of October 31, 2000 (65 FR 64966), there was one technical error. The error relates to our inadvertently placing an incorrect effective date in section II (Notice of Continued Approval of COLA as an Accreditation Organization) of the **Federal Register** document. That date is inconsistent with the correct effective date, as presented in the **EFFECTIVE DATE** section of the October 31, 2000 notice.

II. Correction of Error

In FR Doc. 00–27956 of October 31, 2000 (65 FR 64966), make the following correction:

On page 64966, in the third column, in the first full paragraph, remove ''August 31, 2002'' and in its place add ''December 31, 2002''.

Authority: Section 353 of the Public Health Service Act (42 U.S.C. 263a).

Dated: November 17, 2000.

Brian P. Burns,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 00–29992 Filed 11–22–00; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4557–N–47]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or

(3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Air Force:* Ms. Barbara Jenkins, Air Force Real Estate Agency (Area-MI), Bolling Air Force Base, 112 Luke Ave., Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184; *Army:* Mr. Jeff Holste, Military Programs, U.S. Army Corps of Engineers, Installation Support Center, Planning Branch, Attn: CEMP–IP, 441 G Street, NW, Washington, DC 20314–1000; (202) 761–5737; *COE:* Ms. Shirley Middleswarth, Army Corps of Engineers, Management & Disposal Division, Pulaski Building, Room 4224, 20 Massachusetts Ave., NW, Washington, DC 20314–1000; (202) 761–0515; *DOT:* Mr. Rugene Spruill, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation, 400 7th Street, SW Room 2310, Washington, DC 20590; (202) 366–4246; *Energy:* Mr. Tom Knox, Department of Energy, Office of Contract & Resource Management, MA–52, Washington, DC 20585; (202) 586–8715; *Interior:* Ms. Linda Tribby, Department of the Interior, 1849 C Street, NW, Mail Stop 5512–MIB, Washington, DC 20240; (202) 219–0728; *Navy:* Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: November 16, 2000.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Special Needs Assistant Programs.

Title V, Federal Surplus Property Program, Federal Register Report for 11/24/00

Suitable/Available Properties

Buildings (by State)

California

Bldgs. 23027, 23025
Marine Corps Air Station
Miramar Co: San Diego CA 92132–
Landholding Agency: Navy
Property Number: 77200040023
Status: Unutilized
Comment: 400 sq. ft., metal siding, most recent use—loading facility, off-site use only

Georgia

Bldg. 2297
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930126
Status: Unutilized
Comment: 5155 sq. ft., most recent use—admin.

Land (by State)

Arizona

0.22 acres
portion of parcel SG–1–169
E. Pueblo Ave & CAP
Apache Junction Co. Maricopa AZ 85206–
Landholding Agency: Interior
Property Number: 61200030010
Status: Excess
Comment: most recent use—aqueduct maintenance

Unsuitable Properties

Buildings (by State)

Alabama

Bldg. 3781
Redstone Arsenal
Redstone Arsenal Co. Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200040001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 5411
Redstone Arsenal
Redstone Arsenal Co. Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200040002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 7160
Redstone Arsenal
Redstone Arsenal Co. Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200040003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 7529
Redstone Arsenal
Redstone Arsenal Co. Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200040004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 7556
Redstone Arsenal
Redstone Arsenal Co. Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200040005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 7559
Redstone Arsenal
Redstone Arsenal Co. Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200040006
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 7567
Redstone Arsenal
Redstone Arsenal Co. AL 35898–5000
Landholding Agency: Army
Property Number: 21200040007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 7171
Redstone Arsenal

Redstone Arsenal Co. Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200040008
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 7646
Redstone Arsenal
Redstone Arsenal Co. Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200040009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 7862
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200040010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 8721
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200040011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 8987
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 21200040012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 30115
Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number:21200040013
Status: Unutilized
Reason: Extensive deterioration

California

Bldg. 6436
Vanderberg AFB
Vanderberg AFB Co: Santa Barbara CA 93437–
Landholding Agency: Air Force
Property Number: 18200040001
Status: Unutilized
Reason: Extensive deterioration

Bldgs. P–15000, P–15004
Fort Irwin
Ft. Irwin Co: San Bernardino CA 92310–
Landholding Agency: Army
Property Number: 21200040014
Status: Unutilized
Reason: Extensive deterioration

Bldgs. S–508
Sharpe Site
Lathrop Co: San Joaquin CA 95231–
Landholding Agency: Army
Property Number: 21200040015
Status: Unutilized
Reason: Secured Area

Bldg. 1393
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200040024
Status: Excess
Reason: Extensive deterioration

Bldg. 25155
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200040025
Status: Excess
Reason: Extensive deterioration

Bldg. 25158
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200040026
Status: Excess
Reason: Extensive deterioration

Bldg. 25159
Marine Corps Base
Camp Pendleton Co: CA 92055–
Landholding Agency: Navy
Property Number: 77200040027
Status: Excess
Reason: Extensive deterioration

Georgia

Bldg. 47
Ft. McPherson
Ft. McPherson Co: Fulton GA 30330–
Landholding Agency: Army
Property Number: 21200040016
Status: Unutilized
Reason: Secured Area

Bldg. 179
Ft. McPherson
Ft. McPherson Co: Fulton GA 30330–
Landholding Agency: Army
Property Number: 21200040017
Status: Unutilized
Reason: Secured Area

Bldg. 186
Ft. McPherson
Ft. McPherson Co: Fulton GA 30330–
Landholding Agency: Army
Property Number: 21200040018
Status: Unutilized
Reason: Secured Area

Bldg. 607
Fort Gillem
Ft. Gillem Co: Clayton GA 30298–
Landholding Agency: Army
Property Number: 21200040019
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 825, 828
Fort Gillem
Ft. Gillem Co: Clayton GA 30298–
Landholding Agency: Army
Property Number: 21200040020
Status: Unutilized
Reason: Extensive deterioration

Bldg. 935
Fort Gillem
Ft. Gillem Co: Clayton GA 30298–
Landholding Agency: Army
Property Number: 21200040021
Status: Unutilized
Reason: Extensive deterioration

Hawaii

Phase II Lift Station
Red Hill
Honolulu Co: HI 96818–
Landholding Agency: DOT
Property Number: 87200040001
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 1820
Coast Guard ISC
Honolulu Co: HI 96819–
Landholding Agency: DOT
Property Number: 87200040002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration

Kentucky

Bldgs. 04881, 04882
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 21200040022
Status: Unutilized
Reason: Extensive deterioration

Bldg. 05232
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 21200040023
Status: Unutilized
Reason: Extensive deterioration

Bldgs. T05713, T05725
Fort Campbell
Ft. Campbell Co: KY 42223–
Landholding Agency: Army
Property Number: 21200040024
Status: Unutilized
Reason: Extensive deterioration

Louisiana

Bldg. 7705
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21200040025
Status: Unutilized
Reasons: Floodway, Extensive deterioration

Bldg. 7707
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21200040026
Status: Unutilized
Reasons: Floodway, Extensive deterioration

Bldg. 7709
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21200040027
Status: Unutilized
Reason: Floodway

Bldg. 7710
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21200040028
Status: Unutilized
Reason: Floodway, Extensive deterioration

Bldg. 7722
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21200040029
Status: Unutilized
Reason: Floodway, Extensive deterioration

Maryland

Bldg. 1226
Andrews AFB
Camp Springs Co: Prince George's MD 20762–
Landholding Agency: Air Force
Property Number: 18200040002
Status: Unutilized
Reason: Secured Area

Bldg. 03322
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200040030
Status: Unutilized
Reason: Extensive deterioration

Michigan

Boathouse
Coast Guard Station
East Tawas Co: Iosco MI 48730–
Landholding Agency: DOT
Property Number: 87200040003
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Minnesota

Bldg. F5 1973–01
Mississippi Hdqts. Gull Lake Proj
Brainerd Co: Cass MN 56401–9051
Landholding Agency: COE
Property Number: 31200040001
Status: Unutilized
Reason: Extensive deterioration

New Jersey

Bldg. T05134
Fort Dix
Ft. Polk Co: Burlington NJ 08640–5505
Landholding Agency: Army
Property Number: 21200040031
Status: Unutilized
Reason: Extensive deterioration

New Mexico

Bldg. 197
Holloman AFB
Holloman AFB Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 18200040003
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 30, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200040001
Status: Unutilized
Reason: Secured Area

Bldg. 152 TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200040002
Status: Unutilized
Reason: Secured Area

North Carolina

3 Bldgs.
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–5000
Location: E–2320, 0–3505, 0–9029
Landholding Agency: Army
Property Number: 21200040032
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs.
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–5000
Location: 8–6811, 8–6813, 8–6911, 8–7039
Landholding Agency: Army
Property Number: 21200040033
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs.
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–5000
Location: Y–7502, Y–7602, Y–7802
Landholding Agency: Army
Property Number: 21200040034
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs.
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–5000
Location: 2–3330, 2–3403, 2–5519
Landholding Agency: Army
Property Number: 21200040035
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs.
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–5000
Location: 4–1444, 0–5303, 0–6401, 0–9401, 0–9403, 0–9404
Landholding Agency: Army
Property Number: 21200040036
Status: Unutilized
Reason: Extensive deterioration

19 Bldgs.
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–5000
Location: 0–1401, 0–1403, 0–2503, 0–2603, 0–2703, 0–2803, 0–3103, 0–3403, 0–4103, 0–4203, 0–4403, 0–4603, 0–4703, 0–5603, 0–5803, 0–6503, 0–663D, 0–663E, 0–6703
Landholding Agency: Army
Property Number: 21200040037
Status: Unutilized
Reason: Extensive deterioration

South Carolina

Bldg. 7
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200040030
Status: Unutilized
Reason: Secured Area

Bldg. 314
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200040031
Status: Unutilized
Reason: Secured Area

Bldg. 316
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445–
Landholding Agency: Navy
Property Number: 77200040032
Status: Unutilized
Reason: Secured Area

Tennessee

Bldg. A613
Holston Army Ammunition Plant
Kingsport Co: Sullivan TN 37550–
Landholding Agency: Army
Property Number: 21200040038
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs.
Fort Story
304, 310, 755, 760
Ft. Story Co: Princess Ann VA 23459–
Landholding Agency: Army
Property Number: 21200040039
Status: Unutilized
Reason: Extensive deterioration

Bldg. T–9100
Fort Lee
Ft. Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 21200040040
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs.
Fort A.P. Hill
TT0712, TT0713, TT0714, TT0715
Bowling Green Co: VA 22427–
Landholding Agency: Army
Property Number: 21200040041
Status: Unutilized
Reason: Extensive deterioration

Bldg. SS1623
Fort A.P. Hill
Bowling Green Co: VA 22427–
Landholding Agency: Army
Property Number: 21200040042
Status: Unutilized
Reason: Extensive deterioration

Family Housing Units
Marine Corps Base
Quantico Co: VA
Landholding Agency: Navy
Property Number: 77200040033
Status: Unutilized
Reason: Extensive deterioration

[FR Doc. 00–29827 Filed 11–22–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare Comprehensive Plan and Environmental Assessment for Arapaho National Wildlife Refuge, Walden, CO

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: This notice advises that the U.S. Fish and Wildlife Service intends to gather information necessary to prepare a Comprehensive Conservation Plan and associated environmental documents for Arapaho National Wildlife Refuge in north-central Colorado. Arapaho National Wildlife Refuge manages Bamforth National Wildlife Refuge, Mortenson Lake National Wildlife Refuge, Hutton Lake National Wildlife Refuge, and

Pathfinder National Wildlife Refuge, all located in Wyoming.

However, CCPs for these Arapaho NWR stations in Wyoming will not be prepared concurrent with the CCP for Arapaho NWR. The Service is furnishing this notice in compliance with Service CCP policy to advise other agencies and the public of its intentions and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: Written comments should be received by December 26, 2000.

ADDRESSES: Comments and requests for more information regarding Arapaho NWR should be sent to Bernardo Garza. Planning Team Leader, Division of Planning, PO Box 25486, DFC, Denver, CO 80225.

FOR FURTHER INFORMATION CONTACT:
Bernardo Garza, Planning Team Leader, Division of Planning, PO Box 25486, DFC, Denver, CO 80225; or
Michael Spratt, Chief, Division of Planning, PO Box 25486, DFC, Denver, CO 80225.

SUPPLEMENTARY INFORMATION: The Service has initiated Comprehensive Conservation Planning for the Arapaho National Wildlife Refuge near Walden, Colorado.

Each National Wildlife Refuge has specific purposes for which it was established and for which legislation was enacted. Those purposes are used to develop and prioritize management goals and objectives within the National Wildlife Refuge System mission and to guide which public uses will occur on the Refuge. The planning process is a way for the Service and the public to evaluate management goals and objectives for the best possible conservation efforts of this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with each National Wildlife Refuge's establishing purposes and the mission of the National Wildlife Refuge System.

Arapaho National Wildlife Refuge (approximately 24,800 acres) was established in 1967 and is located in an intermountain glacial basin immediately south of Walden (county seat of Jackson County, Colorado) in a 45-mile long basin commonly known as North Park. Current public use opportunities at this Refuge include wildlife observation, photography, and fishing.

The Service will conduct a comprehensive conservation planning process that will provide opportunity for Tribal, State, and local governments, agencies, organizations, and the public to participate in issue scoping and public comment. The Service is requesting input for issues, concerns, ideas, and suggestions for the future management of Arapaho National Wildlife Refuge in north-central Colorado. Anyone interested in providing input is invited to respond to the following three questions:

(1) What makes Arapaho NWR special or unique for you?

(2) What problems or issues do you want to see addressed in the Comprehensive Conservation Plan?

(3) What improvements would you recommend for Arapaho NWR?

The Service has provided the above questions for your optional use; you are not required to provide information to the Service. The Planning Team developed these questions to facilitate finding out more information about individual issues and ideas concerning these Refuges. Comments received by the Planning Team will be used as part of the planning process; individual comments will not be referenced in our reports or directly responded to.

An opportunity will be given to the public to provide input at open houses to scope issues and concerns (schedules can be obtained from the Planning Team Leaders at the above addresses). Comments may also be submitted anytime during the planning process by writing to the above addresses. All information provided voluntarily by mail, phone, or at public meetings becomes part of the official public record (i.e., names, addresses, letters of comment, input recorded during meetings). If requested under the Freedom of Information Act by a private citizen or organization, the Service may provide informational copies.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR parts 1500–1508), and other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations.

All comments received from individuals on Service Environmental Assessments and Environmental Impact Statements become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act, NEPA (40 CFR 1506.6(f)), and other Departmental and Service policy and procedures. When requested, the Service generally will provide comment letters with the names and addresses of the individuals who wrote the comments.

However, the telephone number of the commenting individual will not be provided in response to such requests to the extent permissible by law. Additionally, public comment letters are not required to contain the commentator's name, address, or any other identifying information. Such comments may be submitted anonymously to the Service.

Dated: November 15, 2000.

Elliott Sutta,

Regional Director, Denver, Colorado.

[FR Doc. 00–29960 Filed 11–22–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of Receipt of Applications

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. TE—10472

Applicant: Geo-Marine, Newport News, Virginia

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the southwestern willow flycatcher (*Empidonax traillii extimus*) in Arizona, New Mexico, and Texas.

Permit No. TE—034087

Applicant: University of New Mexico, Dept. of Biology, Albuquerque, New Mexico

Applicant requests authorization to conduct activities for research and recovery purposes for the Comanche Springs pupfish (*Cyprinodon elegans*) and the Leon Springs pupfish (*Cyprinodon bovinus*).

Permit No. TE—34960

Applicant: Arizona Department of Transportation-Natural Resources, Phoenix, Arizona

Applicant requests authorization to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) and the southwestern willow flycatcher (*Empidonax traillii extimus*) in Arizona on Department of Transportation right-of-ways.

Permit No. TE—35179

Applicant: Denis P. Humphrey, Show Low, Arizona

Applicant requests authorization for recovery purposes to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (Glaucidium brasilianum cactorum) on Bureau of Reclamation lands in central and south central Arizona.

DATES: Written comments on these permit applications must be received on or before December 26, 2000.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: The U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents before December 26, 2000, to the address above.

Stephen C. Helfert,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 00–30019 Filed 11–22–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letters of Authorization To Take Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of a Letter of Authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations (50 CFR 18.27(f)(3)), notice is hereby given that a Letter of Authorization to take polar bears incidental to oil and gas industry exploration activities has been issued to the following companies:

Company	Activity	Date issued
Western Geophysical Company	Exploration	October 13, 2000.
Western Geophysical Company	Exploration	October 13, 2000.

Contact: Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3810.

SUPPLEMENTARY INFORMATION: The Letters of Authorization were issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations ''Marine Mammals; Incidental Take During Specified Activities (65 FR 16828; March 30, 2000).''

Dated: November 13, 2000.

Gary Edwards,

Deputy Regional Director.

[FR Doc. 00–29975 Filed 11–22–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

[No. CIV 90–0957 LH/WWD]

Notice of Publication of Final Share Percentage Schedule: Ramah Navajo Chapter v. Bruce Babbitt

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the ''Final Share Percentage Schedule'' for the Class in *Ramah Navajo Chapter, et al.* v. *Bruce Babbitt, et al.*, as required by paragraphs 11 and 12 of Appendix D of the Partial Settlement Agreement (PSA) previously approved by the Court in this case for the years 1989–1993.

FOR FURTHER INFORMATION CONTACT: Michael P. Gross, Class Counsel, 460 St. Michael's Drive, #300, Santa Fe, NM 87505–7602; (505) 983–6686; FAX (505) 986–1367; or C. Bryant Rogers, Co-Counsel, Roth, VanAmberg, Rogers, Ortiz, Fairbanks & Yepa LLP, 347 East Palace Avenue, Post Office Box 1447, Santa Fe, NM 87504–1447; (505) 988–8979; FAX (505) 983–7508.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in Part 290, Chapter 8, of the Departmental Manual.

The notice of ''Final Share Percentage Schedule'' in *Ramah Navajo Chapter, and Oglala Sioux Tribe, for themselves and on behalf of a Class of persons similarly situated* v. *Bruce Babbitt, Secretary of the Interior; Kevin Gover, Assistant Secretary of the Interior; Robert J. Williams, Acting Inspector General, U.S. Department of the Interior; and the United States of America* [No. CIV 90–0957 LH/WWD], before the United States District Court for the District of New Mexico, reads as follows:

Dated: November 17, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

Notice of Publication of Final Share Percentage Schedule

This Notice publishes the ''Final Share Percentage Schedule'' for the Class in *Ramah Navajo Chapter, et al.* v. *Bruce Babbitt, et al.*, as required by paragraphs 11 and 12 of Appendix D of the Partial Settlement Agreement (PSA) previously approved by the Court in this case for the years 1989–1993.

The ''Final Share Percentage Schedule'' appended hereto as Exhibit A sets out each Class Member's percentage share of the partial settlement amount separately stated for each of the five settlement years for all class members reflected in the ''Amended Final List of Class Members'' prepared per paragraph 8(c) of Appendix D of the PSA and filed on October 2, 2000. The methodology and computations used by the Independent CPA in preparing this schedule were independently reviewed and verified by Kenton Keckler, P.C., CPAs & Consultants, 1850 Calle Medico, Suite K, Santa Fe, NM 87505, the Court Approved Class Monitor. The draft schedule was also made available to Class Counsel and Defendants' counsel for review prior to finalization per paragraphs 11 and 12 of Appendix D of the PSA. A Stipulation of Counsel was subsequently filed shortening all review

and objection periods for Class Counsel and Defendants' Counsel as regards the Final Share Percentage Schedule under paragraphs 11 and 12 of Appendix D of the PSA to expedite the initial distribution to Class Members.

The appended ''Final Share Percentage Schedule'' contains the following information for each Class Member as required by paragraph 11 of Appendix D of the PSA stated separately for each of the five settlement years:

(a) Name of Class Member;

(b) Other-federal-agency-funding amount separately stated for each settlement year;

(c) The sum of all Class Member's other-federal-agency-funding separately stated for each settlement year; and

(d) Each Class Member's share percentage based on the formula set forth in paragraph 2 of Appendix D.

The dollar amount shown in Column C of the Appended Schedule does not show the amount of money Class Members will receive. That dollar amount merely shows the net other federal agencies funding amount calculated by the Independent CPA for each Class Member for each settlement year based on the audit data obtained for each Class Member. That data was then used to calculate the share percentages shown in Column D.

This notice and the appended Schedule have been mailed to each Class Member on or about the same date as this **Federal Register** publication. Each Class Member was also mailed a more detailed statement of the computation carried out in calculating their particular share percentage for each year. That more detailed statement includes for each settlement year a separate (1) statement of the total amount of funds shown in each Class Member's Schedule of Federal Financial Assistance; (2) the total of BIA funds removed from that schedule; (3) the total of IHS funds removed from that schedule; (4) the total of other federal agency construction funds removed from the schedule (such construction funds are not properly includable in indirect cost bases per OMB Circular A–87, hence did not contribute to the damages caused by the methodological defect for which damages were recovered in this case under the PSA); and (5) the total of other adjustments, *e.g.,* to remove from the Schedule of Federal Financial Assistance any non-federal funds inadvertently listed there by a Class Member's auditors that were not ''Other Federal Agency Funds.'' Audited amounts were prorated for periods covering in excess of 12 months to a standard 12 month period.

Because those detailed computation sheets include information confidential to each Class Member, Class Members will only be permitted access to their own detailed computation sheet.

Under paragraphs 12 and 13 of Appendix D of the PSA, a Class Member may object to its own share percentages as stated on the appended final share percentage schedule only on one or more of the following grounds for one or more of the settlement years:

(a) The accuracy of the ''other-federal-agency'' funding number listed on the schedule;

(b) The Class member was incorrectly omitted from the Schedule; or

(c) A mathematical or typographical error in the calculation of that Class Member's share percentage as shown on the schedule.

Tribal entities which did not appear on the ''Amended Final List of Class Members'' filed on October 2, 2000 per paragraph 8(c) of Appendix D of the PSA are no longer Class Members for purposes of the PSA, will not appear on the appended schedule and have no further rights under the PSA. Other than combination of a few Class members, the ''Amended Final List of Class Members'' filed for record on October 2, 2000, consists of the same Class members as included on the ''Final List of Class Members'' filed on July 13, 2000, and served on the ''short list'' of Class members on that same date, per the ''Notice of Final List of Class Members for Distribution of Partial Settlement and Final Insufficient Data List.'' That ''short list'' had previously been mailed to 1,185 provisional Class members per ''Class Distribution Notice #2'' on May 25, 2000.

All Class Members' objections to their final share percentages must be filed with the Clerk of the Court and served upon Class Counsel and Defendants' Counsel within 30 days of the date of publication of this **Federal Register** publication notice.

Under paragraph 13 of Appendix D of the PSA:

> Class Member's objections must include a sworn certificate of the basis for the objection, state what other-federal-agency dollar amount or what percentage the objector claims should be entered on the schedule if the objection were sustained, and must attach documentary verification of the basis for the objection. Objections which do not comply with this provision will be disregarded. Affidavits challenging the accuracy of Class Member's ''other-federal-agency'' funding number in the schedule without supporting documentary evidence will not be sufficient.

Paragraph 14 of Appendix D of the PSA sets out the procedure for resolving any Class Member's objections to its own final share percentages.

Once the deadlines for objections has passed without objections, or, if any objections are filed, once they are resolved, a final schedule setting out in dollars each Class Member's share of the net common fund amount will be prepared, submitted for final Court approval and published per paragraph 15 of Appendix D of the PSA. Checks to pay-out each Class Member's share will then be mailed per paragraph 16 of Appendix D of the PSA, after final Court approval.

Under paragraphs 17–19 of Appendix D of the PSA, there will be a later distribution of the balance of the Reserve Account after all expenses of distribution are paid. The Reserve Account includes all interest earning on the net common fund amount.

Any questions regarding this notice and individual share percentage calculations should be directed to the Independent CPA: REDW, LLC, Ramah Navajo Chapter—Settlement Administrator, Post Office Box 93659, Albuquerque, NM 87199–3659; 1(888) 726–9418; *www.rncsettlement.com*

Class members who have questions about the computation of their share percentages are encouraged to contact the Independent CPA for clarification before deciding whether to file an objection.

Under paragraphs 15 and 16 of Appendix D of the PSA, if any objections result in an increase in any class members share percentage for any year this will cause in a proportional decrease in all other class members' final share percentages for the year in which such change is approved by the Court. However, no changes in the underlying data used to calculate class members' share percentages will result from any objection by another class member. Under paragraphs 15 and 16 of Appendix D of the PSA, adjusted final share percentages which result from any prevailing objections will then be used for the distribution without further notice to the class subject to prior approval of the Court.

This Notice has been issued by Class Counsel pursuant to paragraph 12 of Appendix D of the PSA.

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1989

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1989 net other federal funds (Tribe's column C amount/total of all column C amounts for 1989)
		Net other federal funds* (1989)	
1	Absentee—Shawnee Tribe of Oklahoma	.....	0.000000
2	Acoma Pueblo	1,087,820	0.580071
11	Akiachak Native Community	.....	0.000000
14	Alabama-Coushatta Tribal Council	1,092,912	0.582787
17	Alamo Navajo School Board Inc	861,560	0.459420
24	All Indian Pueblo Council	215,874	0.115113
33	Angoon Village (IRA)	13,153	0.007014
36	Apache Tribe of Oklahoma	211,762	0.112920
37	Northern Arapaho Tribe	1,354,516	0.722285
42	Assiniboine and Sioux Tribes of Fort Peck	2,331,136	1.243060
43	Association of Village Council Presidents Inc	2,259,941	1.205096
51	Bad River Band of Lake Superior Chippewa Indians of Wisconsin	1,121,117	0.597827
56	Bay Mills Indian Community	153,906	0.082069
58	Bear River Band of Rohnerville Rancheria	.....	0.000000
66	Orutsararmuit Native Council	141,878	0.075655
67	Big Lagoon Rancheria	.....	0.000000
68	Big Pine Pauite Shoshone Band	.....	0.000000
74	Bishop Pauite Tribe	.....	0.000000
76	Black Mesa Community School	27,142	0.014473
77	Blackfeet Tribe	3,830,765	2.042725
78	Blue Lake Rancheria of California	.....	0.000000
79	Board of Directors Trenton Indian Service Area	99,504	0.053060
89	Burns-Paiute General Council	19,096	0.010183
93	Caddo Tribe of Oklahoma	115,418	0.061546
95	Cahuilla Band of Indians	.....	0.000000
97	Campo Band of Mission Indians	.....	0.000000
108	Central Council Tlingit and Haida Tribes of Alaska	2,164,420	1.154160
114	Confederated Tribes of the Chehalis Reservation	161,149	0.085931
115	Chemehuevi Tribal Council	.....	0.000000
117	Cher-Ae Heights Indian Community of the Trinidad Rancheria	.....	0.000000
118	Eastern Band of Cherokee Indians/Cherokee Boy's Club, Inc	2,169,409	1.156820
120	Cherokee Nation of Oklahoma	11,092,446	5.914959
122	Cheyenne River Sioux Tribe	2,343,427	1.249614
123	Cheyenne-Arapaho Tribe	1,011,071	0.539146
126	Chickasaw Nation of Oklahoma	1,826,798	0.974126
138	Chippewa-Cree Tribe	1,516,990	0.808923
141	Chitimacha Tribe of Louisiana	229,221	0.122230
144	Choctaw Nation of Oklahoma	3,907,538	2.083664
152	Cibecue Community Edu. Board, Inc	69,236	0.036920
156	Citizen Band Potawatomi Tribe	1,220,364	0.650749
161	Coast Indian Community of the Rerighini Rancheria	.....	0.000000
164	Coeur D'Alene Tribal Council	562,221	0.299800
167	Colorado River Tribal Council	1,625,147	0.866597
171	Comanche Tribe of Oklahoma	782,237	0.417122
173	Confederated Salish & Kootenai Tribal Council	4,810,536	2.565180
174	Confederated Tribes of Coos, Lower Umpqua, & Siuslaw Indians	39,829	0.021239
176	Confederated Tribes of the Colville Reservation	1,937,708	1.033268
177	Confederated Tribes of the Grand Ronde Tribal Council	260,018	0.138653
178	Confederated Tribes of the Warm Springs Reservation	901,820	0.480888
179	Confederated Tribes of Umatilla Indian Reservation	1,173,672	0.625851
181	Cook Inlet Tribal Council	1,132,493	0.603893
185	Coquille Indian Tribe	.....	0.000000
191	Coushatta Tribe of Louisiana	.....	0.000000
193	Cow Creek Band of Umpqua Indians	3,711	0.001979
198	Crow Creek Sioux	395,629	0.210966
199	Crow Creek Sioux Tribal High School	26,839	0.014312
200	Crow Tribe of Indians	.....	0.000000
208	Delaware Tribe of Western Oklahoma	281,872	0.150306
217	Duck Valley Shoshone-Paiute Tribes	415,961	0.221808
219	Duckwater Shoshone Tribal Council	250,969	0.133827
222	Eastern Shawnee Tribe of Oklahoma	.....	0.000000
232	Elk Valley Rancheria	.....	0.000000
234	Ely Indian Colony of Western Shoshone	.....	0.000000

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1989—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1989 net other federal funds (Tribe's column C amount/total of all column C amounts for 1989)
		Net other federal funds* (1989)	
236	Enemy Swim Day School	15,535	0.008284
240	Fairbanks Native Association	317,735	0.169430
241	Fallon Colony	85,516	0.045601
243	Flagstaff Dormitory	.....	0.000000
244	Flandreau Santee Sioux	35,885	0.019135
246	Fond du Lac Ojibwe School	2,363,707	1.260428
248	Forest County Potawatomi Executive Council	210,094	0.112031
250	Fort Belknap Community Council	2,809,730	1.498266
251	Fort Bidwell Indian Community of Paiute Indians	.....	0.000000
256	Fort McDowell Mohave-Apache Indian Comm	358,549	0.191193
257	Fort Mojave Indian Tribe	288,528	0.153855
260	Fort Yukon Village (IRA)	300,609	0.160297
263	Gambell Village	.....	0.000000
266	Gila River Indian Community	3,048,346	1.625506
268	Confederated Tribes of the Goshute Reservation	.....	0.000000
269	Grand Portage Band of the Ojibwe	228,867	0.122042
270	Grand Traverse Band of Ottawa & Chippewa Indians	515,410	0.274838
274	Greyhills Academy High School	.....	0.000000
280	Hannahvile Indian School	153,694	0.081956
284	Havasupai Tribal Council	355,152	0.189382
286	Ho-Chunk Nation	841,091	0.448505
288	Hoh Tribe	19,653	0.010480
291	Hoopa Valley Tribe	769,622	0.410395
295	Hopi Tribal Council	2,336,998	1.246186
299	Houlton Band of Maliseet Indians	16,862	0.008992
300	Hualapai Tribal Council	305,502	0.162907
320	Iowa Tribe of Oklahoma	35,026	0.018677
322	Pueblo of Isleta	.....	0.000000
327	Jamestown S'Klallam Tribal Council	207,393	0.110591
330	Jemez Pueblo	.....	0.000000
332	Jicarilla Apache Tribe	730,548	0.389559
334	Passamaquoddy Tribe—Indian Township	194,596	0.103767
336	Kaibab-Paiute Tribal Council	.....	0.000000
338	Organized Village of Kake	15,334	0.008177
340	Kalispel Tribe	229,898	0.122591
345	Karuk Tribe of California	.....	0.000000
349	Kaw Nation of Oklahoma	26,146	0.013942
350	Kawerak Inc	896,562	0.478085
353	Ketchikan Indian Corporation (IRA)	356,241	0.189963
354	Keweenaw Bay Indian Community	129,929	0.069284
356	Kiana Village	.....	0.000000
358	Kickapoo Traditional Tribe of Texas	.....	0.000000
359	Kickapoo Tribe of Kansas	200,684	0.107013
360	Kickapoo Tribe of Oklahoma	150,681	0.080349
365	Kiowa Tribe of Oklahoma	821,316	0.437960
369	Klamath General Council	222,327	0.118554
378	Kootenai Tribal Council	118,903	0.063404
380	Kotzebue Village (IRA)	.....	0.000000
384	Kuskokwim Native Association	93,482	0.049849
385	Kwethluk Village (IRA)	.....	0.000000
386	Kwigillingok Village (IRA)	.....	0.000000
388	La Jolla Band of Indians	.....	0.000000
391	Lac Courte Oreilles Governing Board	1,537,331	0.819770
392	Lac du Flambeau Band of Lake Superior Chippewa Indians	1,569,920	0.837147
393	Lac Vieux Desert Band of Lake Superior Chippewa Indians	.....	0.000000
395	Laguna Pueblo	581,197	0.309919
397	Larsen Bay Village	.....	0.000000
398	Las Vegas Tribal Council	451,203	0.240600
401	Leech Lake Band of Ojibwe	1,692,692	0.902615
408	Little Singer Community School	5,480	0.002922
411	Little Wound School	344,774	0.183848
413	Loneman Day School	50,159	0.026747
419	Lower Brule Sioux	738,578	0.393841

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1989—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1989 net other federal funds (Tribe's column C amount/total of all column C amounts for 1989)
		Net other federal funds* (1989)	
420	Lower Elwha Community Council	254,150	0.135523
423	Lower Sioux Indian Community Council	114,248	0.060922
426	Lummi Nation	871,645	0.464798
430	Maineindian Education	593,879	0.316681
431	Makah Tribal Council	575,024	0.306627
440	Manzanita Band of Mission Indians	3,587	0.001913
443	Marty Indian School	164,061	0.087484
445	Mashantucket Pequot Tribe	51,042	0.027218
450	Menominee Indian Tribe of Wisconsin	904,876	0.482518
452	Mentasta Lake Village	.....	0.000000
453	Mesa Grande Band of Mission Indians	.....	0.000000
455	Mescalero Apache Tribe	.....	0.000000
456	Metlakatla Indian Community Council	258,924	0.138069
459	Miami Tribe of Oklahoma	.....	0.000000
461	Miccosukee Tribe of Florida Indians	1,172,355	0.625149
463	Mille Lacs Reservation Business Committee	559,861	0.298541
464	Minnesota Chippewa Tribal Executive Committee	893,900	0.476665
466	Mississippi Band of Choctaw Indians	5,181,619	2.763057
467	Moapa Business Council	20,921	0.011156
471	Concow Maidu Tribe of Mooretown Rancheria	.....	0.000000
473	Muckleshoot Tribal Council	934,020	0.498059
475	Muscogee (Creek) Nation of Oklahoma	1,899,125	1.012693
479	Pueblo of Nambe	.....	0.000000
484	Narragansett Indian Tribe	43,385	0.023135
489	Navajo Preparatory School	141,978	0.075709
495	Nett Lake Reservation (Bois Forte) Tribe	602,704	0.321387
502	Nez Perce Tribe	1,813,152	0.966849
507	Nisqually Indian Community Council	533,123	0.284284
511	Nome Eskimo Community	78,872	0.042058
515	Nooksack Indian Tribal Council	193,882	0.103386
518	Northern Cheyenne Tribal Schools	.....	0.000000
519	Northern Cheyenne Tribe	1,606,810	0.856819
521	Northwest Indian Fisheries Commission	147,705	0.078763
522	Northwestern Band of Shoshoni Nation	.....	0.000000
528	Oglala Sioux Tribe	4,373,098	2.331920
530	Ojibwa Indian School	755,627	0.402932
534	Omaha Tribe of Nebraska	519,561	0.277052
536	Oneida Tribal Council of Wisconsin	1,416,568	0.755374
540	Osage Tribe of Indians of Oklahoma	940,949	0.501754
542	Otoe-Missouria Tribe of Oklahoma	490,701	0.261662
548	Paiute Indian Tribe of Utah	248,151	0.132325
551	Paschal Sherman Indian School	.....	0.000000
552	Pascua Yaqui Tribal Council	428,166	0.228316
555	Passamaquoddy Tribe—Pleasant Point	886,225	0.472572
557	Pauma Band of Mission Indians	.....	0.000000
558	Pawnee Tribe of Oklahoma	217,353	0.115902
561	Penobscot Nation	704,068	0.375439
562	Peoria Tribe of Indians of Oklahoma	.....	0.000000
566	Pueblo of Picuris	.....	0.000000
567	Pierre Indian Learning Center	140,530	0.074937
574	Pinon Community School Board Inc	.....	0.000000
584	Poarch Band of Creek Indians	1,100,944	0.587070
587	Point No Point Treaty Council	56,426	0.030089
591	Ponca Tribe of Oklahoma	316,594	0.168821
592	Porcupine Day School	3,133	0.001671
593	Port Gamble S'Klallam Tribe	365,718	0.195016
599	Prairie Band Potawatomi Tribe of Kansas	83,083	0.044303
600	Prairie Island Community Council	28,080	0.014973
603	Pueblo of Santa Clara	379,815	0.202533
604	Puyallup Tribal Council	597,897	0.318824
606	Pyramid Lake Paiute Tribal Council	152,380	0.081255
609	Quapaw Tribe of Oklahoma	.....	0.000000
611	Quechan Indian Tribe	771,980	0.411652

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1989—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1989 net other federal funds (Tribe's column C amount/total of all column C amounts for 1989)
		Net other federal funds* (1989)	
612	Quileute Tribal Council	704,450	0.375642
614	Quinault Indian Nation	650,880	0.347077
615	Ramah Navajo School Board Inc	638,132	0.340279
621	Red Cliff Tribal Council	759,230	0.404853
629	Redding Rancheria	.....	0.000000
631	Reno-Sparks Indian Colony	.....	0.000000
634	Rincon Band of Luiseno Indians	.....	0.000000
638	Rock Point Community School	757,847	0.404116
641	Rosebud Sioux Tribe	3,169,895	1.690322
644	Rough Rock Community School	202,589	0.108029
651	Sac and Fox Nation of Oklahoma	469,289	0.250245
653	Sac and Fox Tribal of the Mississippi in Iowa	209,107	0.111505
655	Saginaw Chippewa Tribal Council	441,393	0.235369
660	Salt River Pima-Maricopa Indian Tribe	1,130,069	0.602600
662	San Carlos Apache Tribal Council	1,714,040	0.913998
663	Pueblo de San Felipe	.....	0.000000
666	San Juan Pueblo	213,196	0.113685
667	San Juan Southern Pauite Indians	.....	0.000000
672	Sandia Pueblo	.....	0.000000
674	Santa Ana Pueblo	239,553	0.127740
677	Santa Fe Indian School	634,018	0.338085
682	Santa Ysabel Band of Diegueno Indians	.....	0.000000
683	Santee Sioux Tribe of Nebraska	171,288	0.091338
685	Sauk-Suiattle Tribal Council	.....	0.000000
686	Sault Ste Marie Chippewa Tribal Council	970,467	0.517494
693	Selawik Village (IRA)	.....	0.000000
695	Seminole Nation of Oklahoma	657,291	0.350495
696	Seminole Tribe of Florida	2,837,871	1.513272
697	Seneca Nation of Indians	1,706,529	0.909993
698	Senca-Cayuga Tribe of Oklahoma	.....	0.000000
700	Shakopee Mdewakanton Sioux Community	87,100	0.046445
706	Sherwood Valley of the Promo Indians	.....	0.000000
710	Shiprock Reservation Domitory	20,742	0.011061
712	Shoalwater Bay Tribal Council	101,355	0.054047
716	Joint Business Council Shoshone/Arapaho Tribes	1,418,232	0.756261
718	Shoshone-Bannock Tribe	2,718,477	1.449606
720	Sinte Gleska College	1,228,918	0.655311
721	Sisseton-Wahpeton Sioux Tribe	798,392	0.425736
722	Sitka Village (IRA)	34,499	0.018396
724	Skokomish Tribal Council	472,062	0.251723
729	Smith River Rancheria of California	.....	0.000000
732	Sokaogon Chippewa Tribal Council	.....	0.000000
740	Southern Ute Indian Tribe	525,872	0.280417
741	Spirit Lake Sioux Tribe	765,816	0.408365
742	Spokane Tribe	673,819	0.359309
743	Squaxin Island Tribal Council	50,862	0.027122
744	St. Francis Indian School	174,639	0.093125
746	St. Stephens Indian School	.....	0.000000
747	St. Croix Council of Wisconsin	381,011	0.203171
748	St. Michaels	334	0.000178
749	St. Regis Mohawk Tribe	1,071,020	0.571113
752	Standing Rock Sioux Tribe	2,621,602	1.397949
759	Stillaguamish Board of Directors	59,846	0.031912
760	Stockbridge-Munsee Tribal Council	806,634	0.430131
764	Simmit Lake Paiute Council	.....	0.000000
765	Suquamish Tribal Council	109,687	0.058490
766	Susanville Indian Rancheria	.....	0.000000
768	Swinomish Indian Tribal Community	426,910	0.227646
778	Taos Pueblo	605,575	0.322918
779	Tate Topa Tribal School (Four Winds)	634,409	0.338294
786	Te-Monk Tribe of Western Shoshone	821	0.000438
789	The Hopi Credit Association	.....	0.000000
794	Three Affiliated Tribes	1,678,775	0.895194

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1989—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1989 net other federal funds (Tribe's column C amount/total of all column C amounts for 1989)
		Net other federal funds* (1989)	
796	Tiospa Zina Tribal School	202,795	0.108139
800	Tohono O'Odham Nation	3,793,868	2.023050
801	Toiyabe Indian Health Project, Inc.	.....	d0.000000
806	Tonkawa Tribe of Oklahoma	428,042	0.228250
809	Torres Martinez Desert Cahuilla Indians	.....	0.000000
817	Tulalip Tribes of Washington	664,838	0.354520
818	Tule River Indian Tribe	.....	0.000000
820	Tunica-Biloxi Indian Tribe of Louisiana	71,641	0.038202
824	Turtle Mountain Bank of Chippewa	2,992,398	1.595673
825	Turtle Mountain Community College	452,401	0.241239
830	Twin Buttes Day School	93,919	0.050082
844	United Crow Band Inc	13,790	0.007353
846	United Sioux Tribes	758,820	0.404635
847	United Tribes Technical College	806,323	0.429965
852	Upper Sioux Community	27,308	0.014562
853	Upper Skagit Tribal Council	384,133	0.204836
854	Ute Indian Tribe	1,760,347	0.938691
855	Ute Mountain Ute Tribe	924,794	0.493139
864	Walker River Paiute Tribal Council	124,771	0.066533
865	Wampanoag Tribe of Gay Head	29,711	0.015843
870	Washone Tribe of Nevada and CA	105,486	0.056250
875	White Earth Band of Chippewa Indians	1,480,742	0.789594
879	White Shield School	15,632	0.008336
881	Wichita and Affiliated Tribes	83,339	0.044440
884	Winnebago Tribe of Nebraska	761,905	0.406280
887	Wounded Knee District School	59,011	0.031467
889	Wyandotte Tribe of Oklahoma	.....	0.000000
890	Yakama Tribal Council	4,481,885	2.389930
892	Yakutat Tlingit Tribe	.....	0.000000
893	Yankton Sioux Tribe	233,490	0.124507
895	Yavapai-Prescot Board of Directors	79,460	0.042371
896	Yerington Paiute Tribe	288,263	0.153714
897	Yomba Shoshone Tribe	.....	0.000000
898	Yselta Del Sur Pueblo	.....	0.000000
901	Zia Pueblo	45,398	0.024208
902	Zuni Pueblo	2,724,805	1.452981
908	Bay Mills Community College	.....	0.000000
917	Cglala Lakota Community College	1,883,095	1.004146
920	Cheyenne River Community College	218,389	0.116454
930	Crazy Horse School	211,458	0.112758
935	Dibe Yazhi Habitlin Olta, Inc. (Borrego, Pass)	97,231	0.051848
940	Dull Knife Memorial College	594,282	0.316896
946	Fort Berthold Community College	323,532	0.172521
962	Kickapoo Nation College	426,508	0.227432
968	Leupp Boarding School	.....	0.000000
983	Northwest Indian College	.....	0.000000
998	Salish Kootenai College	2,251,882	1.200798
1026	Tuba City Boarding School	310,229	0.165427
1033	Wingate Board of Education	.....	0.000000
1037	Oglala Sioux Tribe Department of Public Safety	.....	0.000000
1039	Great Lakes Fish & Wildlife Commission	.....	0.000000
1040	1854 Authority	.....	0.000000
1042	Ogala Sioux Parks & Recreation Authority	.....	0.000000
1043	Navajo Area School Board Assoc., Inc.	.....	0.000000
1044	Tohatchi Special Edu. & Training Center	1,179,809	0.629124
1046	Bristol Bay Native Association	583,633	0.311218
1047	Columbia River Inter-Tribal Fish Commission	.....	0.000000
1050	Covelo Indian Community Council	.....	0.000000
1051	Dakota Plains Institute of Learning	.....	0.000000
1052	Eeda Consortium of Tribes	.....	0.000000
1053	Great Lakes Inter-tribal Council	.....	0.000000
1055	Inter-Tribal Council of Michigan, Inc	908,652	0.484532
1058	Local Indian Education Committee, Inc	.....	0.000000

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1989—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1989 net other federal funds (Tribe's column C amount/total of all column C amounts for 1989)
		Net other federal funds* (1989)	
1059	Lummi Community College		0.000000
1061	Native American Fish & Wildlife Society		0.000000
1064	North Pacific Rim	181,617	0.096846
1065	Nothwest Intertribal Court System	108,288	0.057744
1066	Nothern Plains Inter-Tribal Court System		0.000000
1070	Sioux City Indian Education Committee		0.000000
1071	Skagit System Cooperative		0.000000
1072	Sky People Education Committee		0.000000
1073	Turning Point		0.000000
	Total class members	187,532,074	100.000000

*Total Federal Funds shown on Schedule of Federal Assistance less BIA, IHS, construction and other adjustments to delete non-federal funds.

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1990

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1990 net other federal funds (Tribe's column C amount/total of all column C amounts for 1990)
		Net other federal funds* (1990)	
1	Absentee-Shawnee Tribe of Oklahoma	23,689	0.012338
2	Acoma Pueblo	967,665	0.503973
11	Akiachak Native Community		0.000000
14	Alabama-Coushatta Tribal Council	1,220,618	0.635714
17	Alamo Navajo School Board Inc	852,775	0.444136
24	All Indian Pueblo Council	466,429	0.242922
33	Angoon Village (IRA)		0.000000
36	Apache Tribe of Oklahoma	245,995	0.128117
37	Northern Arapaho Tribe		0.000000
42	Assiniboine and Sioux Tribes of Fort Peck	2,459,583	1.280983
43	Association of Village Council Presidents Inc	336,209	0.175102
51	Bad River Band of Lake Superior Chippewa Indians of Wisconsin	949,961	0.494752
56	Bay Mills Indian Community	276,525	0.144018
58	Bear River Band of Rohnerville Rancheria		0.000000
66	Orutsararmuit Native Council	186,311	0.097033
67	Big Lagoon Rancheria		0.000000
68	Big Pine Pauite Shoshone Band		0.000000
74	Bishop Pauite Tribe		0.000000
76	Black Mesa Community School	42,537	0.022154
77	Blackfeet Tribe	3,793,721	1.975820
78	Blue Lake Rancheria of California	79,658	0.041487
79	Board of Directors Trenton Indian Service Area	326,057	0.169815
89	Burns-Paiute General Council	25,134	0.013090
93	Caddo Tribe of Oklahoma	156,501	0.081508
95	Cahuilla Band of Indians		0.000000
97	Campo Band of Mission Indians		0.000000
108	Central Council Tlingit and Haida Tribes of Alaska	2,338,495	1.217919
114	Confederated Tribes of the Chehalis Reservation	175,560	0.091434
115	Chemehuevi Tribal Council		0.000000
117	Cher-Ae Heights Indian Community of the Trinidad Rancheria		0.000000
118	Eastern Band of Cherokee Indians/Cherokee Boy's Club, Inc	2,370,435	1.234554
120	Cherokee Nation of Oklahoma	11,175,288	5.820238
122	Cheyenne River Sioux Tribe	2,977,545	1.550745
123	Cheyenne-Arapaho Tribe	1,045,502	0.544511
126	Chickasaw Nation of Oklahoma	2,037,625	1.061222

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1990—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1990 net other federal funds (Tribe's column C amount/total of all column C amounts for 1990)
		Net other federal funds* (1990)	
138	Chippewa-Cree Tribe	1,615,993	0.841630
141	Chitimacha Tribe of Louisiana	210,021	0.109382
144	Choctaw Nation of Oklahoma	3,795,896	1.976953
152	Cibecue Community Edu. Board, Inc	70,180	0.036551
156	Citizen Band Potawatomi Tribe	1,058,254	0.551153
161	Coast Indian Community of the Resighini Rancheria	.....	0.000000
164	Coeur D'Alene Tribal Council	573,663	0.298771
167	Colorado River Tribal Council	1,583,324	0.824616
171	Comanche Tribe of Oklahoma	854,532	0.445052
173	Confederated Salish & Kootenai Tribal Council	5,020,694	2.614844
174	Confederated Tribes of Coos, Lower Umpqua, & Siuslaw Indians	23,485	0.012231
176	Confederated Tribes of the Colville Reservation	2,277,554	1.186180
177	Confederated Tribes of the Grand Ronde Tribal Council	233,004	0.121352
178	Confederated Tribes of the Warm Springs Reservation	844,817	0.439992
179	Confederated Tribes of Umatilla Indian Reservation	1,270,529	0.661708
181	Cook Inlet Tribal Council	1,407,514	0.733052
185	Coquille Indian Tribe	.....	0.000000
191	Coushatta Tribe of Louisiana	176,106	0.091718
193	Cow Creek Band of Umpqua Indians	400	0.000208
198	Crow Creek Sioux	352,897	0.183793
199	Crow Creek Sioux Tribal High School	24,976	0.013008
200	Crow Tribe of Indians	.....	0.000000
208	Delaware Tribe of Western Oklahoma	104,901	0.054634
217	Duck Valley Shoshone-Paiute Tribes	444,843	0.231680
219	Duckwater Shoshone Tribal Council	192,943	0.100487
222	Eastern Shawnee Tribe of Oklahoma	132,289	0.068898
232	Elk Valley Rancheria	.....	0.000000
234	Ely Indian Colony of Western Shoshone	.....	0.000000
236	Enemy Swim Day School	15,481	0.008063
240	Fairbanks Native Association	609,239	0.317300
241	Fallon Colony	43,089	0.022441
243	Flagstaff Dormitory	16,661	0.008677
244	Flandreau Santee Sioux	111,438	0.058038
246	Fond Du Lac Ojibwe School	1,989,201	1.036002
248	Forest County Potawatomi Executive Council	243,479	0.126807
250	Fort Belknap Community Council	1,797,196	0.936003
251	Fort Bidwell Indian Community of Paiute Indians	.....	0.000000
256	Fort McDowell Mohave-Apache Indian	381,233	0.198551
257	Fort Mojave Indian Tribe	305,697	0.159211
260	Fort Yukon Village (IRA)	115,152	0.059973
263	Gambell Village	.....	0.000000
266	Gila River Indian Community	2,798,077	1.457275
268	Confederated Tribes of the Goshute Reservation	155,097	0.080777
269	Grand Portage Band of the Ojibwe	510,224	0.265731
270	Grand Traverse Band of Ottawa & Chippewa Indians	522,564	0.272158
274	Greyhills Academy High School	127,160	0.066227
280	Hannahvile Indian School	125,899	0.065570
284	Havasupai Tribal Council	435,336	0.226729
286	Ho-Chunk Nation	1,025,170	0.533922
288	Hoh Tribe	5,314	0.002768
291	Hoopa Valley Tribe	986,163	0.513607
295	Hopi Tribal Council	2,303,229	1.199552
299	Houlton Band of Maliseet Indians	56,716	0.029538
300	Hualapai Tribal Council	518,513	0.270048
320	Iowa Tribe of Oklahoma	171,802	0.089477
322	Pueblo of Isleta	.....	0.000000
327	Jamestown S'Klallam Tribal Council	160,798	0.083746
330	Jemez Pueblo	.....	0.000000
332	Jicarilla Apache Tribe	793,692	0.413365
334	Passamaquoddy Tribe—Indian Township	302,569	0.157582
336	Kaibab-Paiute Tribal Council	24,420	0.012718
338	Organized Village of Kake	71,570	0.037275
340	Kalispel Tribe	207,692	0.108169

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1990—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1990 net other federal funds (Tribe's column C amount/total of all column C amounts for 1990)
		Net other federal funds* (1990)	
345	Karuk Tribe of California	.....	0.000000
349	Kaw Nation of Oklahoma	54,324	0.028293
350	Kawerak Inc	822,771	0.428510
353	Ketchikan Indian Corporation (IRA)	336,242	0.175119
354	Keweenaw Bay Indian Community	209,095	0.108899
356	Kiana Village	.....	0.000000
358	Kickapoo Traditional Tribe of Texas	.....	0.000000
359	Kickapoo Tribe of Kansas	263,264	0.137111
360	Kickapoo Tribe of Oklahoma	168,399	0.087704
365	Kiowa Tribe of Oklahoma	669,449	0.348658
369	Klamath General Council	371,080	0.193263
378	Kootenai Tribal Council	223,960	0.116641
380	Kotzebue Village (IRA)	.....	0.000000
384	Kuskokwim Native Association	107,091	0.055774
385	Kwethluk Village (IRA)	.....	0.000000
386	Kwigillingok Village (IRA)	.....	0.000000
388	La Jolla Band of Indians	36,751	0.019140
391	Lac Courte Oreilles Governing Board	1,161,766	0.605063
392	Lac Du Flambeau Band of Lake Superior Chippewa Indians	1,556,659	0.810729
393	Lac Vieux Desert Band of Lake Superior Chippewa Indians	.....	0.000000
395	Laguna Pueblo	711,798	0.370714
397	Larsen Bay Village	.....	0.000000
398	Las Vegas Tribal Council	350,104	0.182339
401	Leech Lake Band of Ojibwe	1,861,513	0.969501
408	Little Singer Community School	38,295	0.019945
411	Little Wound School	454,546	0.236734
413	Loneman Day School	103,879	0.054102
419	Lower Brule Sioux	842,760	0.438921
420	Lower Elwha Community Council	240,759	0.125390
423	Lower Sioux Indian Community Council	161,177	0.083943
426	Lummi Nation	770,306	0.401186
430	Maineindian Education	555,114	0.289111
431	Makah Tribal Council	558,368	0.290805
440	Manzanita Band of Mission Indians	100,116	0.052142
443	Marty Indian School	126,095	0.065672
445	Mashantucket Pequot Tribe	.....	0.000000
450	Menominee Indian Tribe of Wisconsin	1,055,372	0.549652
452	Mentasta Lake Village	.....	0.000000
453	Mesa Grande Band of Mission Indians	.....	0.000000
455	Mescalero Apache Tribe	.....	0.000000
456	Metlakatla Indian Community Council	200,557	0.104453
459	Miami Tribe of Oklahoma	.....	0.000000
461	Miccosukee Tribe of Florida Indians	1,141,382	0.594447
463	Mille Lacs Reservation Business Committee	704,386	0.366854
464	Minnesota Chippewa Tribal Executive Committee	1,054,802	0.549355
466	Mississippi Band of Choctaw Indians	5,214,001	2.715521
467	Moapa Business Council	25,217	0.013133
471	Concow Maidu Tribe of Mooretown Rancheria	.....	0.000000
473	Muckleshoot Tribal Council	859,401	0.447587
475	Muscogee (Creek) Nation of Oklahoma	2,031,185	1.057868
479	Pueblo of Nambe	.....	0.000000
484	Narragansett Indian Tribe	89,502	0.046614
489	Navajo Preparatory School	.....	0.000000
495	Nett Lake Reservation (Bois Forte) Tribe	550,335	0.286622
502	Nez Perce Tribe	1,959,027	1.020287
507	Nisqually Indian Community Council	675,632	0.351878
511	Nome Eskimo Community	88,299	0.045987
515	Nooksack Indian Tribe	310,979	0.161962
518	Northern Cheyenne Tribal Schools	128,972	0.067170
519	Northern Cheyenne Tribe	1,614,101	0.840645
521	Northwest Indian Fisheries Commission	194,280	0.101184
522	Northwestern Band of Shoshoni Nation	.....	0.000000
528	Oglala Sioux Tribe	4,600,838	2.396177

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1990—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1990 net other federal funds (Tribe's column C amount/total of all column C amounts for 1990)
		Net other federal funds* (1990)	
530	Ojibwa Indian School	736,979	0.383828
534	Omaha Tribe of Nebraska	585,911	0.305150
536	Oneida Tribal Council of Wisconsin	1,678,158	0.874007
540	Osage Tribe of Indians of Oklahoma	990,927	0.516088
542	Otoe-Missouria Tribe of Oklahoma	468,401	0.243949
548	Paiute Indian Tribe of Utah	81,556	0.042475
551	Paschal Sherman Indian School	.....	0.000000
552	Pascua Yaqui Tribal Council	747,819	0.389474
555	Passamaquoddy Tribe—Pleasant Point	819,602	0.426860
557	Pauma Band of Mission Indians	.....	0.000000
558	Pawnee Tribe of Oklahoma	217,456	0.113254
561	Penobscot Nation	527,933	0.274954
562	Peoria Tribe of Indians of Oklahoma	.....	0.000000
566	Pueblo of Picuris	.....	0.000000
567	Pierre Indian Learning Center	184,210	0.095939
574	Pinon Community School Board Inc	.....	0.000000
584	Poarch Band of Creek Indians	858,864	0.447308
587	Point No Point Treaty Council	58,533	0.030485
591	Ponca Tribe of Oklahoma	370,178	0.192794
592	Porcupine Day School	27,695	0.014424
593	Port Gamble S'Klallam Tribe	231,733	0.120690
599	Prairie Bank Potawatomi Tribe of Kansas	89,176	0.046444
600	Prairie Island Community Council	33,083	0.017230
603	Pueblo of Santa Clara	475,352	0.247570
604	Puyallup Tribal Council	656,645	0.341989
606	Pyramid Lake Paiute Tribal Council	250,360	0.130391
609	Quapaw Tribe of Oklahoma	.....	0.000000
611	Quechan Indian Tribe	886,388	0.461643
612	Quileute Tribal Council	737,133	0.383909
614	Quinault Indian Nation	776,783	0.404559
615	Ramah Navajo School Board Inc	581,035	0.302611
621	Red Cliff Tribal Council	1,222,341	0.636611
629	Redding Rancheria	.....	0.000000
631	Reno-Sparks Indian Colony	15,669	0.008161
634	Rincon Bank of Luiseno Indians	46,819	0.024384
638	Rock Point Community School	579,093	0.301599
641	Rosebud Sioux Tribe	3,703,979	1.929081
644	Rough Rock Community School	379,224	0.197505
651	Sac and Fox Nation of Oklahoma	555,550	0.289338
653	Sac and Fox Tribal of the Mississippi in Iowa	190,867	0.099406
655	Saginaw Chippewa Tribal Council	201,065	0.104717
660	Salt River Pima-Maricopa Indian Tribe	1,568,399	0.816843
662	San Carlos Apache Tribal Council	1,872,177	0.975055
663	Pueblo De San Felipe	.....	0.000000
666	San Juan Pueblo	.....	0.000000
667	San Juan Southern Pauite Indians	.....	0.000000
672	Sandia Pueblo	.....	0.000000
674	Santa Ana Pueblo	273,372	0.142376
677	Santa Fe Indian School	602,332	0.313702
682	Santa Ysabel Band of Diegueno Indians	100,469	0.052326
683	Santee Sioux Tribe of Nebraska	254,839	0.132724
685	Sauk-Suiattle Tribal Council	84,369	0.043940
686	Sault Ste Marie Chippewa Tribal Council	1,296,132	0.675043
693	Selawik Village (IRA)	.....	0.000000
695	Seminole Nation of Oklahoma	794,024	0.413538
696	Seminole Tribe of Florida	2,741,453	1.427785
697	Seneca Nation of Indians	1,804,296	0.939701
698	Seneca-Cayuga Tribe of Oklahoma	44,581	0.023218
700	Shakopee Mdewakanton Sioux Community	.....	0.000000
706	Sherwood Valley of the Promo Indians	.....	0.000000
710	Shiprock Reservation Dormitory	63,998	0.033331
712	Shoalwater Bay Tribal Council	89,754	0.046745
716	Joint Business Council Shoshone/Arapaho Tribes	.....	0.000000

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1990—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1990 net other federal funds (Tribe's column C amount/total of all column C amounts for 1990)
		Net other federal funds* (1990)	
718	Shoshone-Bannock Tribe	2,065,702	1.075845
720	Sinte Gleska College	1,085,215	0.565194
721	Sisseton-Wahpeton Sioux Tribe	717,318	0.373589
722	Sitka Village (IRA)	89,076	0.046392
724	Skokomish Tribal Council	527,937	0.274957
729	Smith River Rancheria of California	.....	0.000000
732	Sokaogon Chippewa Tribal Council	150,864	0.078572
740	Southern Ute Indian Tribe	420,411	0.218956
741	Spirit Lake Sioux Tribe	745,570	0.388303
742	Spokane Tribe	613,118	0.319320
743	Squaxin Island Tribal Council	74,682	0.038895
744	St. Francis Indian School	327,309	0.170467
746	St. Stephens Indian School	587,798	0.306133
747	St. Croix Council of Wisconsin	384,578	0.200293
748	St. Micheals	44,009	0.022920
749	St. Regis Mohawk Tribe	1,007,304	0.524617
752	Standing Rock Sioux Tribe	3,048,446	1.587671
759	Stillaguamish Board of Directors	45,859	0.023884
760	Stockbridge-Munsee Tribal Council	612,776	0.319142
764	Summit Lake Paiute Council	.....	0.000000
765	Suquamish Tribal Council	103,001	0.053644
766	Susanville Indian Rancheria	.....	0.000000
768	Swinomish Indian Tribal Community	336,524	0.175266
778	Taos Pueblo	713,472	0.371586
779	Tate Topa Tribal School (Four Winds)	276,207	0.143852
786	Te-Moak Tribe of Western Shoshone	.....	0.000000
789	The Hopi Credit Association	.....	0.000000
794	Three Affiliated Tribes	1,778,688	0.926364
796	Tiospa Zina Tribal School	87,387	0.045512
800	Tohono O'Odham Nation	2,996,665	1.560703
801	Toiyabe Indian Health Project, Inc	.....	0.000000
806	Tonkawa Tribe of Oklahoma	133,339	0.069445
809	Torres Martinez Desert Cahuilla Indians	.....	0.000000
817	Tulalip Tribes of Washington	705,432	0.367398
818	Tule River Indian Tribe	297,213	0.154792
820	Tunica-Biloxi Indian Tribe of Louisiana	76,562	0.039875
824	Turtle Mountain Band of Chippewa	2,983,233	1.553707
825	Turtle Mountain Community College	816,971	0.425489
830	Twin Buttes Day School	66,817	0.034799
844	United Crow Band Inc	55,152	0.028724
846	United Sioux Tribes	840,675	0.437835
847	United Tribes Technical College	1,001,398	0.521541
852	Upper Sioux Community	22,671	0.011807
853	Upper Skagit Tribal Council	284,784	0.148319
854	Ute Indian Tribe	1,739,636	0.906025
855	Ute Mountain Ute Tribe	832,278	0.433461
864	Walker River Paiute Tribal Council	83,418	0.043445
865	Wampanoag Tribe of Gay Head (Aquinnah)	64,066	0.033366
870	Washoe Tribe of Nevada and CA	91,560	0.047686
875	White Earth Band of Chippewa Indians	2,103,293	1.095423
879	White Shield School	163,523	0.085165
881	Wichita and Affiliated Tribes	164,504	0.085676
884	Winnebago Tribe of Nebraska	689,678	0.359193
887	Wounded Knee District School	30,180	0.015718
889	Wyandotte Tribe of Oklahoma	.....	0.000000
890	Yakama Tribal Council	4,378,666	2.280467
892	Yakutat Tlingit Tribe	.....	0.000000
893	Yankton Sioux Tribe	194,675	0.101389
895	Yavapai-Prescott Board of Directors	.....	0.000000
896	Yerington Paiute Tribe	95,455	0.049714
897	Yomba Shoshone Tribe	12,605	0.006565
898	Yselta Del Sur Pueblo	.....	0.000000
901	Zia Pueblo	87,312	0.045473

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1990—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1990 net other federal funds (Tribe's column C amount/total of all column C amounts for 1990)
		Net other federal funds* (1990)	
902	Zuni Pueblo	2,898,756	1.509710
908	Bay Mills Community College	764,284	0.398049
917	Cglala Lakota Community College	3,241,485	1.688208
920	Cheyenne River Community College	117,253	0.061067
930	Crazy Horse School	239,992	0.124991
935	Dibe Yazhi Habitiin Olta, Inc. (Borrego, Pass)	102,829	0.053555
940	Dull Knife Memorial College	481,144	0.250586
946	Fort Berthold Community College	584,629	0.304483
962	Kickapoo Nation School	208,928	0.108812
968	Leupp Boarding School	.....	0.000000
983	Northwest Indian College	1,109,555	0.577871
998	Salish Kootenai College	1,827,724	0.951903
1026	Tuba City Boarding School	.....	0.000000
1033	Wingate Board of Education	.....	0.000000
1037	Oglala Sioux Tribe Department of Public Safety	.....	0.000000
1039	Great Lakes Fish & Wildlife Commission	.....	0.000000
1040	1854 Authority	.....	0.000000
1042	Ogala Sioux Parks & Recreation Authority	.....	0.000000
1043	Navajo Area School Board Assoc. Inc	.....	0.000000
1044	Tohatchi Special Edu. & Training Center	1,156,746	0.602449
1046	Bristol Bay Native Association	524,134	0.272976
1047	Columbia River Inter-Tribal Fish Commission	12,978	0.006759
1050	Covelo Indian Community Council	161,969	0.084356
1051	Dakota Plains Institute of Learning	.....	0.000000
1052	Eeda Consortium of Tribes	.....	0.000000
1053	Great Lakes Inter-Tribal Council	.....	0.000000
1055	Inter-Tribal Council of Michigan, Inc	655,787	0.341543
1058	Local Indian Education Committee, Inc	.....	0.000000
1059	Lummi Community College	.....	0.000000
1061	Native American Fish & Wildlife Society	.....	0.000000
1064	North Pacific Rim	234,308	0.122031
1065	Northwest Intertribal Court System	190,743	0.099341
1066	Northern Plains Inter-Tribal Court System	.....	0.000000
1070	Sioux City Indian Education Committee	.....	0.000000
1071	Skagit System Cooperative	.....	0.000000
1072	Sky People Education Committee	.....	-0.000000
1073	Turning point	.....	0.000000
	Total class member	192,007,421	100.000000

*Total Federal Funds shown on Schedule of Federal Financial Assistance less BIA, IHS, construction and other adjustments to delete non-federal funds.

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1991

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1991 net other federal funds (Tribe's column C amount/total of all column C amounts for 1991)
		Net other federal funds* (1991)	
1	Absentee-Shawnee Tribe of Oklahoma	65,263	0.030139
2	Acoma Pueblo	.....	0.000000
11	Akiachak Native Community	95,965	0.044318
14	Alabama-Coushatta Tribal Council	1,075,659	0.496754
17	Alamo Navajo School Board Inc	712,889	0.329222
24	All Indian Pueblo Council	369,818	0.170787
33	Angoon Village (IRA)	.....	0.000000

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1991—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1991 net other federal funds (Tribe's column C amount/total of all column C amounts for 1991)
		Net other federal funds* (1991)	
36	Apache Tribe of Oklahoma	272,354	0.125777
37	Northern Arapaho Tribe	.....	0.000000
42	Assiniboine and Sioux Tribes of Fort Peck	3,122,199	1.441876
43	Association of Village Council Presidents Inc	3,104,444	1.433676
51	Bad River Band of Lake Superior Chippewa Indians of Wisconsin	1,116,295	0.515521
56	Bay Mills Indian Community	52,049	0.024037
58	Bear River Band of Rohnerville Rancheria	147,210	0.067984
66	Orutsararmuit Native Council	212,875	0.098309
67	Big Lagoon Rancheria	.....	0.000000
68	Big Pine Pauite Shoshone Band	.....	0.000000
74	Bishop Pauite Tribe	.....	0.000000
76	Black Mesa Community School	.....	0.000000
77	Blackfeet Tribe	4,396,046	2.030156
78	Blue Lake Rancheria of California	96,519	0.044574
79	Board of Directors Trenton Indian Service Area	220,170	0.101678
89	Burns-Paiute General Council	53,942	0.024911
93	Caddo Tribe of Oklahoma	263,078	0.121493
95	Cahuilla Band of Indians	.....	0.000000
97	Campo Band of Mission Indians	.....	0.000000
108	Central Council Tlingit and Haida Tribes of Alaska	2,532,146	1.169381
114	Confederated Tribes of the Chehalis Reservation	180,405	0.083314
115	Chemehuevi Tribal Council	.....	0.000000
117	Cher-Ae Heights Indian Community of the Trinidad Rancheria	5,171	0.002388
118	Eastern Band of Cherokee Indians/Cherokee Boy's Club, Inc	2,352,981	1.086640
120	Cherokee Nation of Oklahoma	13,317,191	6.150067
122	Cheyenne River Sioux Tribe	2,754,189	1.271923
123	Cheyenne-Arapaho Tribe	1,045,252	0.482712
126	Chickasaw Nation of Oklahoma	2,408,429	1.112246
138	Chippewa-Cree Tribe	1,240,462	0.572863
141	Chitimacha Tribe of Louisiana	60,022	0.027719
144	Choctaw Nation of Oklahoma	4,124,282	1.904652
152	Cibecue Community Edu. Board, Inc	.....	0.000000
156	Citizen Band Potawatomi Tribe	1,049,803	0.484814
161	Coast Indian Community of the Resighini Rancheria	40,834	0.018858
164	Coeur D'Alene Tribal Council	844,895	0.390184
167	Colorado River Tribal Council	2,345,221	1.083056
171	Comanche Tribe of Oklahoma	967,769	0.446929
173	Confederated Salish & Kootenai Tribal Council	5,823,780	2.689504
174	Confederated Tribes of Coos, Lower Umpqua, & Siuslaw Indians	76,383	0.035275
176	Confederated Tribes of the Colville Reservation	3,396,425	1.568517
177	Confederated Tribes of the Grand Ronde Tribal Council	313,459	0.144760
178	Confederated Tribes of the Warm Springs Reservation	1,426,346	0.658707
179	Confederated Tribes of Umatilla Indian Reservation	1,694,497	0.782543
181	Cook Inlet Tribal Council	1,885,843	0.870909
185	Coquille Indian Tribe	65,751	0.030365
191	Coushatta Tribe of Louisiana	287,362	0.132708
193	Cow Creek Band of Umpqua Indians	.....	0.000000
198	Crow Creek Sioux	835,171	0.385694
199	Crow Creek Sioux Tribal High School	.....	0.000000
200	Crow Tribe of Indians	.....	0.000000
208	Delaware Tribe of Western Oklahoma	99,010	0.045724
217	Duck Valley Shoshone-Paiute Tribes	360,262	0.166374
219	Duckwater Shoshone Tribal Council	273,295	0.126211
222	Eastern Shawnee Tribe of Oklahoma	73,582	0.033981
232	Elk Valley Rancheria	.....	0.000000
234	Ely Indian Colony of Western Shoshone	171,860	0.079367
236	Enemy Swim Day School	.....	0.000000
240	Fairbanks Native Association	898,892	0.415121
241	Fallon Colony	1,121	0.000518
243	Flagstaff Dormitory	.....	0.000000
244	Flandreau Santee Sioux	123,564	0.057064
246	Fond Du Lac Ojibwe School	1,556,543	0.718834
248	Forest County Potawatomi Executive Council	89,837	0.041488

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1991—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1991 net other federal funds (Tribe's column C amount/total of all column C amounts for 1991)
		Net other federal funds* (1991)	
250	Fort Belknap Community Council	2,243,707	1.036176
251	Fort Bidwell Indian Community of Paiute Indians	.....	0.000000
256	Fort McDowell Mohave-Apache Indian	143,216	0.066139
257	Fort Mojave Indian Tribe	380,770	0.175845
260	Fort Yukon Village (IRA)	.....	0.000000
263	Gambell Village	23,309	0.010764
266	Gila River Indian Community	3,124,942	1.443142
268	Confederated Tribes of the Goshute Reservation	159,042	0.073448
269	Grand Portage Band of the Ojibwe	417,003	0.192578
270	Grand Traverse Band of Ottawa & Chippewa Indians	650,427	0.300376
274	Greyhills Academy High School	.....	0.000000
280	Hannahvile Indian School	77,418	0.035753
284	Havasupai Tribal Council	1,180,267	0.545064
286	Ho-Chunk Nation	648,317	0.299402
288	Hoh Tribe	15,734	0.007266
291	Hoopa Valley Tribe	1,040,593	0.480561
295	Hopi Tribal Council	2,522,224	1.164799
299	Houlton Band of Maliseet Indians	41,303	0.019074
300	Hualapai Tribal Council	895,038	0.413341
320	Iowa Tribe of Oklahoma	202,221	0.093389
322	Pueblo of Isleta	567,918	0.262273
327	Jamestown S'Klallam Tribal Council	101,588	0.046915
330	Jemez Pueblo	474,549	0.219153
332	Jicarilla Apache Tribe	910,833	0.420636
334	Passamaquoddy Tribe—Indian Township	181,858	0.083985
336	Kaibab-Paiute Tribal Council	27,896	0.012883
338	Organized Village of Kake	58,134	0.026847
340	Kalispel Tribe	129,348	0.059735
345	Karuk Tribe of California	188,002	0.086822
349	Kaw Nation of Oklahoma	97,474	0.045015
350	Kawerak Inc	925,826	0.427560
353	Ketchikan Indian Corporation (IRA)	275,982	0.127452
354	Keweenaw Bay Indian Community	250,498	0.115684
356	Kiana Village	.....	0.000000
358	Kickapoo Traditional Tribe of Texas	121,953	0.056320
359	Kickapoo Tribe of Kansas	290,758	0.134276
360	Kickapoo Tribe of Oklahoma	281,741	0.130112
365	Kiowa Tribe of Oklahoma	768,712	0.355002
369	Klamath General Council	817,652	0.377603
378	Kootenai Tribal Council	524,326	0.242141
380	Kotzebue Village (IRA)	.....	0.000000
384	Kuskokwim Native Association	108,874	0.050280
385	Kwethluk Village (IRA)	.....	0.000000
386	Kwigillingok Village (IRA)	.....	0.000000
388	La Jolla Band of Indians	37,996	0.017547
391	Lac Courte Oreilles Governing Board	1,461,253	0.674827
392	Lac du Flambeau Band of Lake Superior Chippewa Indians	1,649,877	0.761936
393	Lac Vieux Desert Band of Lake Superior Chippewa Indians	20,636	0.009530
395	Laguna Pueblo	775,777	0.358265
397	Larsen Bay Village	.....	0.000000
398	Las Vegas Tribal Council	321,209	0.148339
401	Leech Lake Band of Ojibwe	2,000,521	0.923869
408	Little Singer Community School	.....	0.000000
411	Little Wound School	.....	0.000000
413	Loneman Day School	.....	0.000000
419	Lower Brule Sioux	703,919	0.325080
420	Lower Elwha Community Council	313,350	0.144709
423	Lower Sioux Indian Community Council	97,716	0.045127
426	Lummi Nation	1,511,491	0.698028
430	Maineindian Education	394,488	0.182180
431	Makah Tribal Council	1,096,632	0.506440
440	Manzanita Band of Mission Indians	13,703	0.006328
443	Marty Indian School	.....	0.000000

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1991—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1991 net other federal funds (Tribe's column C amount/total of all column C amounts for 1991)
		Net other federal funds* (1991)	
445	Mashantucket Pequot Tribe	113,883	0.052593
450	Menominee Indian Tribe of Wisconsin	1,402,321	0.647612
452	Mentasta Lake Village	.....	0.000000
453	Mesa Grande Band of Mission Indians	.....	0.000000
455	Mescalero Apache Tribe	.....	0.000000
456	Metlakatla Indian Community Council	392,017	0.181039
459	Miami Tribe of Oklahoma	140,253	0.064771
461	Miccosukee Tribe of Florida Indians	1,254,454	0.579325
463	Mille Lacs Reservation Business Committee	919,449	0.424615
464	Minnesota Chippewa Tribal Executive Committee	825,135	0.381059
466	Mississippi Band of Choctaw Indians	5,951,290	2.748390
467	Moapa Business Council	16,357	0.007554
471	Concow Maidu Tribe of Mooretown Rancheria	.....	0.000000
473	Muckleshoot Tribal Council	606,433	0.280059
475	Muscogee (Creek) Nation of Oklahoma	2,148,988	0.992433
479	Pueblo of Nambe	.....	0.000000
484	Narragansett Indian Tribe	137,460	0.063481
489	Navajo Preparatory School	.....	0.000000
495	Nett Lake Reservation (Bois Forte) Tribe	559,667	0.258462
502	Nez Perce Tribe	2,873,705	1.327118
507	Nisqually Indian Community Council	784,526	0.362305
511	Nome Eskimo Community	1,172	0.000541
515	Nooksack Indian Tribe	347,333	0.160403
518	Northern Cheyenne Tribal Schools	100,120	0.046237
519	Northern Cheyenne Tribe	1,843,911	0.851544
521	Northwest Indian Fisheries Commission	267,661	0.123610
522	Northwestern Band of Shoshoni Nation	.....	0.000000
528	Oglala Sioux Tribe	6,195,064	2.860968
530	Ojibwa Indian School	.....	0.000000
534	Omaha Tribe of Nebraska	880,936	0.406829
536	Oneida Tribal Council of Wisconsin	2,991,026	1.381298
540	Osage Tribe of Indians of Oklahoma	1,324,709	0.611769
542	Otoe-Missouria Tribe of Oklahoma	721,908	0.333387
548	Paiute Indian Tribe of Utah	80,627	0.037235
551	Paschal Sherman Indian School	.....	0.000000
552	Pascua Yaqui Tribal Council	931,828	0.430331
555	Passamaquoddy Tribe—Pleasant Point	364,658	0.168404
557	Pauma Band of Mission Indians	.....	0.000000
558	Pawnee Tribe of Oklahoma	228,321	0.105442
561	Penobscot Nation	1,177,539	0.543804
562	Peoria Tribe of Indians of Oklahoma	218,068	0.100707
566	Pueblo of Picuris	23,630	0.010913
567	Pierre Indian Learning Center	.....	0.000000
574	Pinon Community School Board Inc	.....	0.000000
584	Poarch Band of Creek Indians	745,367	0.344221
587	Point No Point Treaty Council	71,419	0.032982
591	Ponca Tribe of Oklahoma	362,858	0.167573
592	Porcupine Day School	.....	0.000000
593	Port Gamble S'Klallam Tribe	328,275	0.151602
599	Prairie Band Potawatomi Tribe of Kansas	229,227	0.105860
600	Prairie Island Community Council	62,484	0.028856
603	Pueblo of Santa Clara	330,693	0.152719
604	Puyallup Tribal Council	625,836	0.289020
606	Pyramid Lake Paiute Tribal Council	358,299	0.165468
609	Quapaw Tribe of Oklahoma	.....	0.000000
611	Quechan Indian Tribe	894,919	0.413286
612	Quileute Tribal Council	809,640	0.373903
614	Quinault Indian Nation	1,086,182	0.501614
615	Ramah Navajo School Board Inc	636,068	0.293745
621	Red Cliff Tribal Council	1,080,945	0.499196
629	Redding Rancheria	13,322	0.006152
631	Reno-Sparks Indian Colony	62,672	0.028943
634	Rincon Band of Luiseno Indians	184,683	0.085289

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1991—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1991 net other federal funds (Tribe's column C amount/total of all column C amounts for 1991)
		Net other federal funds* (1991)	
638	Rock Point Community School	995,881	0.459912
641	Rosebud Sioux Tribe	4,071,329	1.880197
644	Rough Rock Community School	.....	0.000000
651	Sac and Fox Nation of Oklahoma	465,308	0.214886
653	Sac and Fox Tribal of the Mississippi in Iowa	122,560	0.056600
655	Saginaw Chippewa Tribal Council	276,785	0.127823
660	Salt River Pima-Maricopa Indian Tribe	1,524,304	0.703945
662	San Carlos Apache Tribal Council	659,890	0.304747
663	Pueblo de San Felipe	.....	0.000000
666	San Juan Pueblo	.....	0.000000
667	San Juan Southern Pauite Indians	.....	0.000000
672	Sandia Pueblo	.....	0.000000
674	Santa Ana Pueblo	262,794	0.121362
677	Santa Fe Indian School	.....	0.000000
682	Santa Ysabel Band of Diegueno Indians	.....	0.000000
683	Santee Sioux Tribe of Nebraska	249,542	0.115242
685	Sauk-Suiattle Tribal Council	105,274	0.048617
686	Sault Ste Marie Chippewa Tribal Council	1,928,961	0.890821
693	Selawik Village (IRA)	.....	0.000000
695	Seminole Nation of Oklahoma	792,069	0.365789
696	Seminole Tribe of Florida	2,080,282	0.960704
697	Seneca Nation of Indians	2,071,137	0.956480
698	Seneca-Cayuga Tribe of Oklahoma	91,538	0.042274
700	Shakopee Mdewakanton Sioux Community	.....	0.000000
706	Sherwood Valley Band of Pomo Indians	191,015	0.088213
710	Shiprock Reservation Dormitory	.....	0.000000
712	Shoalwater Bay Tribal Council	263,684	0.121773
716	Joint Business Council Shoshone/Arapaho Tribes	.....	0.000000
718	Shoshone-Bannock Tribe	2,546,076	1.175814
720	Sinte Gleska College	1,169,462	0.540074
721	Sisseton-Wahpeton Sioux Tribe	978,633	0.451947
722	Sitka Village (IRA)	239,058	0.110400
724	Skokomish Tribal Council	996,911	0.460388
729	Smith River Rancheria of California	151,282	0.069864
732	Sokaogon Chippewa Tribal Council	159,388	0.073608
740	Southern Ute Indian Tribe	528,532	0.244084
741	Spirit Lake Sioux Tribe	1,000,884	0.462222
742	Spokane Tribe	956,993	0.441953
743	Squaxin Island Tribal Council	103,711	0.047895
744	St. Francis Indian School	.....	0.000000
746	St. Stephens Indian School	404,649	0.186873
747	St. Croix Council of Wisconsin	317,576	0.146661
748	St. Micheals	735,782	0.339795
749	St. Regis Mohawk Tribe	1,312,298	0.606038
752	Standing Rock Sioux Tribe	3,089,105	1.426592
759	Stillaguamish Board of Directors	125,658	0.058031
760	Stockbridge-Munsee Tribal Council	981,554	0.453295
764	Summit Lake Paiute Council	.....	0.000000
765	Suquamish Tribal Council	286,473	0.132297
766	Susanville Indian Rancheria	8,902	0.004111
768	Swinomish Indian Tribal Community	542,934	0.250735
778	Taos Pueblo	423,680	0.195661
779	Tate Topa Tribal School (Four Winds)	.....	0.000000
786	Te-Moak Tribe of Western Shoshone	.....	0.000000
789	The Hopi Credit Association	.....	0.000000
794	Three Affiliated Tribes	2,028,688	0.936877
796	Tiospa Zina Tribal School	180,521	0.083367
800	Tohono O'Odham Nation	2,772,780	1.280509
801	Toiyabe Indian Health Project, Inc.	.....	0.000000
806	Tonkawa Tribe of Oklahoma	137,491	0.063495
809	Torres Martinez Desert Cahuilla Indians	.....	0.000000
817	Tulalip Tribes of Washington	791,522	0.365536
818	Tule River Indian Tribe	238,390	0.110092

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1991—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1991 net other federal funds (Tribe's column C amount/total of all column C amounts for 1991)
		Net other federal funds* (1991)	
820	Tunica-Biloxi Indian Tribe of Louisiana	.....	0.000000
824	Turtle Mountain Band of Chippewa	3,555,229	1.641855
825	Turtle Mountain Community College	1,500,329	0.692873
830	Twin Buttes Day School	.....	0.000000
844	United Crow Band Inc	.....	0.000000
846	United Sioux Tribes	731,489	0.337812
847	United Tribes Technical College	1,464,011	0.676101
852	Upper Sioux Community	38,595	0.017824
853	Upper Skagit Tribal Council	437,362	0.201980
854	Ute Indian Tribe	1,438,620	0.664375
855	Ute Mountain Ute Tribe	868,501	0.401086
864	Walker River Paiute Tribal Council	179,311	0.082808
865	Wampanoag Tribe of Gay Head (Aquinnah)	4,202	0.001941
870	Washoe Tribe of Nevada and CA	319,730	0.147656
875	White Earth Band of Chippewa Indians	2,301,859	1.063031
879	White Shield School	.....	0.000000
881	Wichita and Affiliated Tribes	245,788	0.113508
884	Winnebago Tribe of Nebraska	825,054	0.381022
887	Wounded Knee District School	.....	0.000000
889	Wyandotte Tribe of Oklahoma	.....	0.000000
890	Yakama Tribal Council	4,317,311	1.993795
892	Yakutat Tlingit Tribe	.....	0.000000
893	Yankton Sioux Tribe	221,908	0.102480
895	Yavapai-Prescott Board of Directors	66,141	0.030545
896	Yerington Paiute Tribe	130,557	0.060293
897	Yomba Shoshone Tribe	19,365	0.008943
898	Yselta Del Sur Pueblo	.....	0.000000
901	Zia Pueblo	90,555	0.041820
902	Zuni Pueblo	3,570,157	1.648749
908	Bay Mills Community College	754,877	0.348613
917	Cglala Lakota Community College	2,876,253	1.328294
920	Cheyenne River Community College	34,578	0.015969
930	Crazy Horse School	.....	0.000000
935	Dibe Yazhi Habitiin Olta, Inc. (Borrego, Pass)	.....	0.000000
940	Dull Knife Memorial College	494,499	0.228367
946	Fort Berthold Community College	.....	0.000000
962	Kickapoo Nation School	.....	0.000000
968	Leupp Boarding School	.....	0.000000
983	Northwest Indian College	1,502,076	0.693680
998	Salish Kootenai College	2,059,150	0.950945
1026	Tuba City Boarding School	.....	0.000000
1033	Wingate Board of Education	.....	0.000000
1037	Oglala Sioux Tribe Department of Public Safety	.....	0.000000
1039	Great Lakes Indian Fish & Wildlife Commission	133,100	0.061467
1040	1854 Authority	.....	0.000000
1042	Ogala Sioux Parks & Recreation Authority	.....	0.000000
1043	Navajo Area School Board Assoc. Inc.	.....	0.000000
1044	Tohatchi Special Edu. & Training Center	243,813	0.112596
1046	Bristol Bay Native Association	.....	0.000000
1047	Columbia River Inter-Tribal Fish Commission	317,125	0.146453
1050	Covelo Indian Community Council	.....	0.000000
1051	Dakota Plains Institute of Learning	.....	0.000000
1052	Eeda Consortium of Tribes	.....	0.000000
1053	Great Lakes Inter-Tribal Council	.....	0.000000
1055	Inter-Tribal Council of Michigan, Inc.	903,085	0.417057
1058	Local Indian Education Committee, Inc.	.....	0.000000
1059	Lummi Community College	.....	0.000000
1061	Native American Fish & Wildlife Society	.....	0.000000
1064	North Pacific Rim	224,171	0.103525
1065	Northwest Intertribal Court System	150,475	0.069491
1066	Northern Plains Inter-Tribal Court System	.....	0.000000
1070	Sioux City Indian Education Committee	.....	0.000000
1071	Skagit System Cooperative	82,613	0.038152

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1991—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1991 net other federal funds (Tribe's column C amount/total of all column C amounts for 1991)
		Net other federal funds* (1991)	
1072	Sky People Education Committee	.....	0.000000
1073	Turning Point	.....	0.000000
	Total Class Members	216,537,344	100.000000

*Total Federal Funds shown on Schedule of Federal Financial Assistance less BIA, IHS, construction and other adjustments to delete non-federal funds.

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1992

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1992 net other federal funds (Tribe's column C amount/total of all column C amounts for 1992)
		Net other federal funds* (1992)	
1	Absentee-Shawnee Tribe of Oklahoma	94,690	0.036925
2	Acoma Pueblo	.....	0.000000
11	Akiachak Native Community	157,046	0.061240
14	Alabama-Coushatta Tribal Council	1,089,633	0.424905
17	Alamo Navajo School Board Inc	956,613	0.373033
24	All Indian Pueblo Council	562,383	0.219302
33	Angoon Village (IRA)	.....	0.000000
36	Apache Tribe of Oklahoma	.....	0.000000
37	Northern Arapaho Tribe	1,020,863	0.398088
42	Assiniboine and Sioux Tribes of Fort Peck	3,779,974	1.474009
43	Association of Village Council Presidents Inc	3,550,553	1.384546
51	Bad River Band of Lake Superior Chippewa Indians of Wisconsin	1,245,738	0.485778
56	Bay Mills Indian Community	145,954	0.056915
58	Bear River Band of Rohnerville Rancheria	.....	0.000000
66	Orutsararmuit Native Council	133,595	0.052096
67	Big Lagoon Rancheria	.....	0.000000
68	Big Pine Paiute Shoshone Band	150,295	0.058608
74	Bishop Pauite Tribe	144,453	0.056330
76	Black Mesa Community School	.....	0.000000
77	Blackfeet Tribe	5,181,183	2.020413
78	Blue Lake Rancheria of California	120,700	0.047067
79	Board of Directors Trenton Indian Service Area	379,085	0.147825
89	Burns-Paiute General Council	73,413	0.028628
93	Caddo Tribe of Oklahoma	323,243	0.126049
95	Cahuilla Band of Indians	.....	0.000000
97	Campo Band of Mission Indians	.....	0.000000
108	Central Council Tlingit and Haida Tribes of Alaska	2,815,009	1.097719
114	Confederated Tribes of the Chehalis Reservation	208,618	0.081351
115	Chemehuevi Tribal Council	.....	0.000000
117	Cher-Ae Heights Indian Community of the Trinidad Rancheria	107,135	0.041778
118	Eastern Band of Cherokee Indians/Cherokee Boy's Club, Inc	3,635,147	1.417533
120	Cherokee Nation of Oklahoma	15,727,679	6.133041
122	Cheyenne River Sioux Tribe	2,972,437	1.159108
123	Cheyenne-Arapaho Tribe	1,071,201	0.417717
126	Chickasaw Nation of Oklahoma	3,114,358	1.214450
138	Chippewa-Cree Tribe	980,183	0.382224
141	Chitimacha Tribe of Louisiana	22,284	0.008690
144	Choctaw Nation of Oklahoma	4,530,825	1.766805
152	Cibecue Community Edu. Board, Inc	.....	0.000000
156	Citizen Band Potawatomi Tribe	1,346,349	0.525012
161	Coast Indian Community of the Resighini Rancheria	880	0.000343
164	Coeur D'Alene Tribal Council	1,176,156	0.458644

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1992—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1992 net other federal funds (Tribe's column C amount/total of all column C amounts for 1992)
		Net other federal funds* (1992)	
167	Colorado River Tribal Council	2,424,299	0.945360
171	Comanche Tribe of Oklahoma	1,014,967	0.395788
173	Confederated Salish & Kootenai Tribal Council	6,858,861	2.674627
174	Confederated Tribes of Coos, Lower Umpqua, & Siuslaw Indians	126,847	0.049464
176	Confederated Tribes of the Colville Reservation	4,123,317	1.607896
177	Confederated Tribes of the Grand Ronde Tribal Council	460,675	0.179641
178	Confederated Tribes of the Warm Springs Reservation	1,808,038	0.705048
179	Confederated Tribes of Umatilla Indian Reservation	1,888,650	0.736483
181	Cook Inlet Tribal Council	2,696,918	1.051669
185	Coquille Indian Tribe	144,765	0.056451
191	Coushatta Tribe of Louisiana	216,670	0.084491
193	Cow Creek Band of Umpqua Indians	.....	0.000000
198	Crow Creek Sioux	1,324,738	0.516584
199	Crow Creek Sioux Tribal High School	.....	0.000000
200	Crow Tribe of Indians	.....	0.000000
208	Delaware Tribe of Western Oklahoma	172,956	0.067445
217	Duck Valley Shoshone-Paiute Tribes	397,659	0.155068
219	Duckwater Shoshone Tribal Council	273,431	0.106625
222	Eastern Shawnee Tribe of Oklahoma	72,268	0.028181
232	Elk Valley Rancheria	.....	0.000000
234	Ely Indian Colony of Western Shoshone	70,085	0.027330
236	Enemy Swim Day School	.....	0.000000
240	Fairbanks Native Association	826,932	0.322464
241	Fallon Colony	163,968	0.063940
243	Flagstaff Dormitory	.....	0.000000
244	Flandreau Santee Sioux	122,382	0.047723
246	Fond Du Lac Ojibwe School	1,846,628	0.720096
248	Forest County Potawatomi Executive Council	216,774	0.084531
250	Fort Belknap Community Council	2,872,515	1.120143
251	Fort Bidwell Indian Community of Paiute Indians	.....	0.000000
256	Fort McDowell Mohave-Apache Indian Comm	170,677	0.066556
257	Fort Mojave Indian Tribe	415,723	0.162112
260	Fort Yukon Village (IRA)	.....	0.000000
263	Gambell Village	.....	0.000000
266	Gila River Indian Community	3,149,049	1.227978
268	Confederated Tribes of the Goshute Reservation	11,258	0.004390
269	Grand Portage Band of the Ojibwe	463,580	0.180774
270	Grand Traverse Band of Ottawa & Chippewa Indians	1,045,113	0.407544
274	Greyhills Academy High School	.....	0.000000
280	Hannahvile Indian School	186,463	0.072712
284	Havasupai Tribal Council	513,821	0.200366
286	Ho-Chunk Nation	842,706	0.328615
288	Hoh Tribe	114,275	0.044562
291	Hoopa Valley Tribe	1,016,109	0.396234
295	Hopi Tribal council	2,660,815	1.037590
299	Houlton Band of Maliseet Indians	75,009	0.029250
300	Hualapai TribaL council	1,490,852	0.581361
320	Iowa Tribe of Oklahoma	219,522	0.085603
322	Pueblo of Isleta	623,457	0.243118
327	Jamestowns' Klallam Tribal Council	258,022	0.100616
330	Jemez Pueblo	642,775	0.250651
332	Jicarilla Apache Tribe	770,802	0.300576
334	Passamaquoddy Tribe—Indian Township	228,619	0.089150
336	Kaibab-Paiute Tribal Council	30,617	0.011939
338	Organized Village of Kake	40,766	0.015897
340	Kalispel Tribe	111,887	0.043631
345	Karuk Tribe of California	313,506	0.122252
349	Kaw Nation of Oklahoma	58,114	0.022662
350	Kawerak Inc	1,519,710	0.592614
353	Ketchikan Indian Corporation (IRA)	270,548	0.105501
354	Keweenaw Bay Indian Community	191,799	0.074792
356	Kiana Village	.....	0.000000
358	Kickapoo Traditional Tribe of Texas	.....	0.000000

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1992—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1992 net other federal funds (Tribe's column C amount/total of all column C amounts for 1992)
		Net other federal funds* (1992)	
359	Kickapoo Tribe of Kansas	261,312	0.101899
360	Kickapoo Tribe of Oklahoma	149,574	0.058327
365	Kiowa Tribe of Oklahoma	805,459	0.314090
369	Klamath General Council	1,287,791	0.502177
378	Kootenai Tribal Council	377,494	0.147205
380	Kotzebue Village (IRA)	.....	0.000000
384	Kuskokwim Native Association	248,045	0.096726
385	Kwethluk Village (IRA)	72,740	0.028365
386	Kwigillingok Village (IRA)	.....	0.000000
388	La Jolla Band of Indians	.....	0.000000
391	Lac Courte Oreilles Governing Board	2,085,027	0.813061
392	Lac du Flambeau Band of Lake Superior Chippewa Indians	1,493,681	0.582464
393	Lac Vieux Desert Band of Lake Superior Chippewa Indians	109,209	0.042586
395	Laguna Pueblo	1,609,958	0.627806
397	Larsen Bay Village	.....	0.000000
398	Las Vegas Tribal Council	295,159	0.115098
401	Leech Lake Band of Ojibwe	3,215,888	1.254042
408	Little Singer Community School	.....	0.000000
411	Little Wound School	.....	0.000000
413	Loneman Day School	.....	0.000000
419	Lower Brule Sioux	680,631	0.265413
420	Lower Elwha Community Council	636,058	0.248032
423	Lower Sioux Indian Community Council	.....	0.000000
426	Lummi Nation	1,317,614	0.513806
430	Maineindian Education	739,388	0.288326
431	Makah Tribal Council	936,874	0.365336
440	Manzanita Band of Mission Indians	23,526	0.009174
443	Marty Indian School	.....	0.000000
445	Mashantucket Pequot Tribe	72,874	0.028417
450	Menominee Indian Tribe of Wisconsin	1,755,032	0.684378
452	Mentasta Lake Village	.....	0.000000
453	Mesa Grande Band of Mission Indians	15,994	0.006237
455	Mescalero Apache Tribe	.....	0.000000
456	Metlakatla Indian Community Council	511,440	0.199437
459	Miami Tribe of Oklahoma	231,683	0.090345
461	Miccosukee Tribe of Florida Indians	1,155,620	0.450636
463	Mille Lacs Reservation Business Committee	1,010,125	0.393900
464	Minnesota Chippewa Tribal Executive Committee	1,004,075	0.391541
466	Mississippi Band of Choctaw Indians	6,924,965	2.700404
467	Moapa Business Council	23,215	0.009053
471	Concow Maidu Tribe of Mooretown Rancheria	.....	0.000000
473	Muckleshoot Tribal Council	717,672	0.279858
475	Muscogee (Creek) Nation of Oklahoma	2,368,307	0.923526
479	Pueblo of Nambe	79,032	0.030819
484	Narragansett Indian Tribe	178,559	0.069629
489	Navajo Preparatory School	51,961	0.020262
495	Nett Lake Reservation (Bois Forte) Tribe	737,476	0.287580
502	Nez Perce Tribe	3,335,742	1.300780
507	Nisqually Indian Community Council	1,349,919	0.526404
511	Nome Eskimo Community	876	0.000342
515	Nooksack Indian Tribe	332,434	0.129633
518	Northern Cheyenne Tribal Schools	317,842	0.123943
519	Northern Cheyenne Tribe	2,472,485	0.964151
521	Northwest Indian Fisheries Commission	211,630	0.082526
522	Northwestern Band of Shoshoni Nation	.....	0.000000
528	Oglala Sioux Tribe	7,054,551	2.750937
530	Ojibwa Indian School	.....	0.000000
534	Omaha Tribe of Nebraska	784,041	0.305738
536	Oneida Tribal Council of Wisconsin	4,104,671	1.600625
540	Osage Tribe of Indians of Oklahoma	1,479,254	0.576838
542	Otoe-Missouria Tribe of Oklahoma	986,925	0.384853
548	Paiute Indian Tribe of Utah	62,607	0.024414
551	Paschal Sherman Indian School	.....	0.000000

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1992—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1992 net other federal funds (Tribe's column C amount/total of all column C amounts for 1992)
		Net other federal funds* (1992)	
552	Pascua Yaqui Tribal Council	906,038	0.353311
555	Passamaquoddy Tribe—Pleasant Point	294,083	0.114678
557	Pauma Band of Mission Indians	.....	0.000000
558	Pawnee Tribe of Oklahoma	314,098	0.122483
561	Penobscot Nation	458,935	0.178963
562	Peoria Tribe of Indians of Oklahoma	.....	0.000000
566	Pueblo of Picuris	.....	0.000000
567	Pierre Indian Learning Center	.....	0.000000
574	Pinon Community School Board Inc	.....	0.000000
584	Poarch Band of Creek Indians	767,417	0.299256
587	Point No Point Treaty Council	60,624	0.023640
591	Ponca Tribe of Oklahoma	516,250	0.201313
592	Porcupine Day School	.....	0.000000
593	Port Gamble S'Klallam Tribe	637,274	0.248506
599	Prairie Band Potawatomi Tribe of Kansas	98,276	0.038323
600	Prairie Island Community Council	22,353	0.008717
603	Pueblo of Santa Clara	484,984	0.189121
604	Puyallup Tribal Council	780,861	0.304498
606	Pyramid Lake Paiute Tribal Council	420,749	0.164072
609	Quapaw Tribe of Oklahoma	57,975	0.022607
611	Quechan Indian Tribe	982,613	0.383172
612	Quileute Tribal Council	753,195	0.293710
614	Quinault Indian Nation	932,247	0.363532
615	Ramah Navajo School Board Inc	663,097	0.258576
621	Red Cliff Tribal Council	1,372,653	0.535269
629	Redding Rancheria	80,475	0.031381
631	Reno-Sparks Indian Colony	597,210	0.232883
634	Rincon Band of Luiseno Indians	.....	0.000000
638	Rock Point Community School	839,210	0.327252
641	Rosebud Sioux Tribe	4,698,160	1.832057
644	Rough Rock Community School	.....	0.000000
651	Sac and Fox Nation of Oklahoma	447,554	0.174525
653	Sac and Fox Tribal of the Mississippi in Iowa	171,370	0.066826
655	Saginaw Chippewa Tribal Council	279,620	0.109038
660	Salt River Pima-Maricopa Indian Tribe	1,629,200	0.635310
662	San Carols Apache Tribal Council	1,781,366	0.694647
663	Pueblo de San Felipe	.....	0.000000
666	San Juan Pueblo	24,31	0.009605
667	San Juan Southern Pauite Indians	.....	0.000000
672	Sandia Pueblo	.....	0.000000
674	Santa Ana Pueblo	173,748	0.067753
677	Santa Fe Indian School	.....	0.000000
682	Santa Ysabel Band of Diegueno Indians	.....	0.000000
683	Santee Sioux Tribe of Nebraska	330,143	0.128740
685	Sauk-Suiattle Tribal Council	126,127	0.049183
686	Sault Ste Marie Chippewa Tribal Council	2,233,590	0.870993
693	Selawik Village (IRA)	.....	0.000000
695	Seminole Nation of Oklahoma	860,582	0.335586
696	Seminole Tribe of Florida	2,192,412	0.854936
697	Seneca Nation of Indians	2,108,041	0.822035
698	Seneca-Cayuga Tribe of Oklahoma	229,284	0.089410
700	Shakopee Mdewakanton Sioux Community	.....	0.000000
706	Sherwood Valley Band of Pomo Indians	211,854	0.082613
710	Shiprock Reservation Dormitory	.....	0.000000
712	Shoalwater Bay Tribal Council	33,690	0.013137
716	Joint Business Council Shoshone/Arapaho Tribes	2,850,111	1.111407
718	Shoshone-Bannock Tribe	3,052,156	1.190195
720	Sinte Gleska College	1,188,139	0.463317
721	Sisseton-Wahpeton Sioux Tribe	940,416	0.366717
722	Sitka Village (IRA)	272,435	0.106237
724	Skokomish Tribal Council	887,818	0.346206
729	Smith River Rancheria of California	.....	0.000000
732	Sokaogon Chippewa Tribal Council	220,350	0.085926

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1992—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1992 net other federal funds (Tribe's column C amount/total of all column C amounts for 1992)
		Net other federal funds* (1992)	
740	Southern UTE Indian Tribe	738,111	0.287828
741	Spirit Lake Sioux Tribe	1,185,573	0.462317
742	Spokane Tribe	1,196,059	0.466406
743	Squaxin Island Tribal Council	163,171	0.063629
744	St. Francis Indian School		−0.000000
746	St. Stephens Indian School	416,431	0.162388
747	St. Croix Council of Wisconsin	344,077	0.134174
748	St. Micheals		−0.000000
749	St. Regis Mohawk Tribe	1,403,797	0.547414
752	Standing Rock Sioux Tribe	3,243,817	1.264933
759	Stillaguamish Board Of Directors	140,464	0.054774
760	Stockbridge-Munsee Tribal Council	779,846	0.304103
764	Summit Lake Paiute Council		0.000000
765	Suquamish Tribal Council	386,973	0.150901
766	Susanville Indian Rancheria		0.000000
768	Swinomish Indian Tribal Community	570,496	0.222466
778	Taos Pueblo	518,008	0.201998
779	Tate Topa Tribal School (Four Winds)		0.000000
786	Te-Moak Tribe of Western Shoshone		0.000000
789	The Hopi Credit Association		0.000000
794	Three Affiliated Tribes	2,406,552	0.938440
796	Tiospa Zina Tribal School	195,634	0.076288
800	Tohono O'Odham Nation	3,524,196	1.374268
801	Toiyabe Indian Health Project, Inc.	461,758	0.180063
806	Tonkawa Tribe of Oklahoma	87,062	0.033950
809	Torres Martinez Desert Cahuilla Indians		0.000000
817	Tulalip Tribes of Washington	716,117	0.279251
818	Tule River Indian Tribe	488,948	0.190666
820	Tunica-Biloxi Indian Tribe of Louisiana	18,045	0.007037
824	Turtle Mountain Band of Chippewa	4,354,134	1.697904
825	Turtle Mountain Community College	1,630,238	0.635715
830	Twin Buttes Day School		0.000000
844	United Crow Band Inc		0.000000
846	United Sioux Tribes	788,489	0.307473
847	United Tribes Technical College	1,661,820	0.648030
852	Upper Sioux Community	32,146	0.012535
853	Upper Skagit Tribal Council	233,101	0.090898
854	Ute Indian Tribe	1,544,246	0.602182
855	Ute Mountain UTE Tribe	879,302	0.342886
864	Walker River Paiute Tribal Council	218,861	0.085345
865	Wampanoag Tribe of Gay Head (Aquinnah)	242,990	0.094754
870	Washoe Tribe of Nevada and CA	227,416	0.088681
875	White Earth Band of Chippewa Indians	2,543,751	0.991941
879	White Shield School		0.000000
881	Wichita and Affiliated Tribes	259,252	0.101096
884	Winnebago Tribe of Nebraska	921,959	0.359520
887	Wounded Knee District School		0.000000
889	Wyandotte Tribe of Oklahoma		0.000000
890	Yakama Tribal Council	4,730,957	1.844847
892	Yakutat Tlingit Tribe	51,887	0.020233
893	Yankton Sioux Tribe	624,369	0.243474
895	Yavapai-Prescott Board of Directors	171,313	0.066804
896	Yerington Paiute Tribe	249,167	0.097163
897	Yomba Shoshone Tribe	9,043	0.003526
898	Yselta Del Sur Pueblo		0.000000
901	Zia Pueblo	70,187	0.027370
902	Zuni Pueblo	3,064,059	1.194836
908	Bay Mills Community College	410,315	0.160003
917	Cglala Lakota Community College	2,202,636	0.858922
920	Cheyenne River Community College 274,967	0.107224	
930	Crazy Horse School		0.000000
935	Dibe Yazhi Habitiin Olta, Inc. (Borrego, Pass)		0.000000
940	Dull Knife Memorial College	464,152	0.180997

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1992—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1992 net other federal funds (Tribe's column C amount/total of all column C amounts for 1992)
		Net other federal funds* (1992)	
946	Fort Berthold Community College		0.000000
962	Kickapoo Nation School		0.000000
968	Leupp Boarding School		0.000000
983	Northwest Indian College	1,697,210	0.661831
998	Salish Kootenai College	2,389,517	0.931797
1026	Tuba City Boarding School		0.000000
1033	Wingate Board of Education		0.000000
1037	Oglala Sioux Tribe Department of Public Safety		0.000000
1039	Great Lakes Indian Fish & Wildlife Commission	174,318	0.067976
1040	1854 Authority		0.000000
1042	Oglala Sioux Parks & Recreation Authority		0.000000
1043	Navajo Area School Board Assoc. Inc.		0.000000
1044	Tohatchi Special Edu. & Training Center	195,532	0.076248
1046	Bristol Bay Native Association		0.000000
1047	Columbia River Inter-Tribal Fish Commission	1,618,041	0.630958
1050	Covelo Indian Community Council		0.000000
1051	Dakota Plains Institute of Learning		0.000000
1052	Eeda Consortium of Tribes		0.000000
1053	Great Lakes Inter-Tribal Council 1,193,780	0.465517	
1055	Inter-Tribal Council of Michigan, Inc.	2,396,344	0.934459
1058	Local Indian Education Committee, inc.		0.000000
1059	Lummi Community College		0.000000
1061	Native American Fish & Wildlife Society	231,966	0.090456
1064	North Pacific Rim	376,317	0.146746
1065	Northwest Intertribal Court System	130,015	0.050700
1066	Northern Plains Inter-Tribal Court System		0.000000
1070	Sioux City Indian Education Committee		0.000000
1071	Skagit System Cooperative	155,376	0.060589
1072	Sky People Education Committee		0.000000
1073	Turning Point		0.000000
	Total class member	256,441,769	100.000000

*Total Federal Funds shown on Schedule of Federal Financial Assistance less BIA, IHS, construction and other adjustments to delete non-federal funds.

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1993

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1993 net other federal funds (Tribe's column C amount/Total of all column C amounts for 1993)
		Net other federal funds* (1993)	
1	Absentee-Shawnee Tribe of Oklahoma	200,118	0.065220
2	Acoma Pueblo	1,087,663	0.354480
11	Akiachak Native Community	81,529	0.026571
14	Alabama-Coushatta Tribal Council	1,333,443	0.434582
17	Alamo Navajo School Board Inc	1,183,355	0.385667
24	All Indian Pueblo Council	1,256,539	0.409518
33	Angoon Village (IRA)		0.000000
36	Apache Tribe of Oklahoma		0.000000
37	Northern Arapaho Tribe	1,098,869	0.358132
42	Assiniboine and Sioux Tribes of Fort Peck	4,532,734	1.477262
43	Association of Village Council Presidents Inc	5,977,090	1.947991
51	Bad River Band of Lake Superior Chippewa Indians of Wisconsin	828,632	0.270059
56	Bay Mills Indian Community	205,242	0.066890
58	Bear River Band of Rohnerville Rancheria		0.000000

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1993—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1993 net other federal funds (Tribe's column C amount/Total of all column C amounts for 1993)
		Net other federal funds* (1993)	
66	Orutsararmuit Native Council	234,243	0.076342
67	Big Lagoon Rancheria	35,686	0.011630
68	Big Pine Paiute Shoshone Band	172,535	0.056231
74	Bishop Paiute Tribe	134,151	0.043721
76	Black Mesa Community School	.....	0.000000
77	Blackfeet Tribe	5,804,692	1.891805
78	Blue Lake Rancheria of California	168,474	0.054907
79	Board of Directors Trenton Indian Service Area	298,253	0.097204
89	Burns-Paiute General Council	78,580	0.025610
93	Caddo Tribe of Oklahoma	333,482	0.108685
95	Cahuilla Band of Indians	35,381	0.011531
97	Campo Band of Mission Indians	254,226	0.082855
108	Central Council Tlingit and Haida Tribes of Alaska	3,601,364	1.173719
114	Confederated Tribes of the Chehalis Reservation	261,838	0.085336
115	Chemehuevi Tribal Council	.....	0.000000
117	Cher-Ae Heights Indian Community of the Trinidad Rancheria	115,816	0.037746
118	Eastern Band of Cherokee Indians/Cherokee Boy's Club, Inc	5,931,580	1.933159
120	Cherokee Nation of Oklahoma	20,561,807	6.701291
122	Cheyenne River Sioux Tribe	3,500,922	1.140984
123	Cheyenne-Arapaho Tribe	1,244,237	0.405509
126	Chickasaw Nation of Oklahoma	3,163,082	1.030879
138	Chippewa-Cree Tribe	902,701	0.294199
141	Chitimacha Tribe of Louisiana	64,376	0.020981
144	Choctaw Nation of Oklahoma	5,607,651	1.827587
152	Cibecue Community Edu. Board, Inc	.....	0.000000
156	Citizen Band Potawatomi Tribe	1,425,314	0.464524
161	Coast Indian Community of the Resighini Rancheria	2,498	0.000814
164	Coeur D'Alene Tribal Council	1,202,051	0.391760
167	Colorado River Tribal Council	2,399,853	0.782135
171	Comanche Tribe of Oklahoma	944,726	0.307895
173	Confederated Salish & Kootenai Tribal Council	7,183,046	2.341024
174	Confederated Tribes of Coos, Lower Umpqua, & Siuslaw Indians	2,543	0.000829
176	Confederated Tribes of the Colville Reservation	4,247,357	1.384255
177	Confederated Tribes of the Grand Ronde Tribal Council	476,410	0.155267
178	Confederated Tribes of the Warm Springs Reservation	2,014,084	0.656409
179	Confederated Tribes of Umatilla Indian Reservation	3,075,772	1.002424
181	Cook Inlet Tribal Council	2,703,405	0.881066
185	Coquille Indian Tribe	184,080	0.059993
191	Coushatta Tribe of Louisiana	121,737	0.039675
193	Cow Creek Band of Umpqua Indians	3,221	0.001050
198	Crow Creek Sioux	1,044,194	0.340313
199	Crow Creek Sioux Tribal High School	.....	0.000000
200	Crow Tribe of Indians	2,745,121	0.894661
208	Delaware Tribe of Western Oklahoma	107,832	0.035143
217	Duck Valley Shoshone-Paiute Tribes	578,067	0.188398
219	Duckwater Shoshone Tribal Council	244,938	0.079828
222	Eastern Shawnee Tribe of Oklahoma	313,720	0.102244
232	Elk Valley Rancheria	122,994	0.040085
234	Ely Indian Colony of Western Shoshone	63,668	0.020750
236	Enemy Swim Day School	.....	0.000000
240	Fairbanks Native Association	731,742	0.238482
241	Fallon Colony	221,627	0.072230
243	Flagstaff Dormitory	.....	0.000000
244	Flandreau Santee Sioux	122,089	0.039790
246	Fond Du Lac Ojibwe School	2,107,846	0.686967
248	Forest County Potawatomi Executive Council	426,313	0.138940
250	Fort Belknap Community Council	3,176,670	1.035307
251	Fort Bidwell Indian Community of Paiute Indians	42,602	0.013884
256	Fort McDowell Mohave-Apache Indian	132,552	0.043200
257	Fort Mojave Indian Tribe	513,161	0.167244
260	Fort Yukon Village (IRA)	.....	0.000000
263	Gambell Village	.....	0.000000
266	Gila River Indian Community	3,778,609	1.231485

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1993—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1993 net other federal funds (Tribe's column C amount/Total of all column C amounts for 1993)
		Net other federal funds* (1993)	
268	Confederated Tribes of the GoShute Reservation	.....	0.000000
269	Grand Portage Band of the Ojibwe	464,739	0.151463
270	Grand Traverse Band of Ottawa & Chippewa Indians	1,077,640	0.351213
274	Greyhills Academy High School	.....	0.000000
280	Hannahvile Indian School	190,861	0.062203
284	Havasupai Tribal Council	561,156	0.182886
286	Ho-Chunk Nation	1,149,213	0.374540
288	Hoh Tribe	75,977	0.024762
291	Hoopa Valley Tribe	1,326,305	0.432256
295	Hopi Tribal Council	3,598,966	1.172938
299	Houlton Band of Maliseet Indians	143,761	0.046853
300	Hualapai Tribal Council	1,759,032	0.573285
320	Iowa Tribe of Oklahoma	128,985	0.042037
322	Pueblo of Isleta	638,484	0.208088
327	Jamestown S'Klallam Tribal Council	337,661	0.110047
330	Jemez Pueblo	536,825	0.174956
332	Jicarilla Apache Tribe	1,082,459	0.352784
334	Passamaquoddy Tribe—Indian Township	386,465	0.125953
336	Kaibab-Paiute Tribal Council	.....	0.000000
338	Organized Village of Kake	.....	0.000000
340	Kalispel Tribe	230,164	0.075013
345	Karuk Tribe of California	288,890	0.094152
349	Kaw Nation of Oklahoma	82,001	0.026725
350	Kawerak Inc	1,882,571	0.613548
353	Ketchikan Indian Corporation (IRA)	323,879	0.105555
354	Keweenaw Bay Indian Community	369,475	0.120415
356	Kiana Village	110,960	0.036163
358	Kickapoo Traditional Tribe of Texas	.....	0.000000
359	Kickapoo Tribe of Kansas	591,740	0.192854
360	Kickapoo Tribe of Oklahoma	169,231	0.055154
365	Kiowa Tribe of Oklahoma	660,368	0.215220
369	Klamath General Council	1,042,156	0.339649
378	Kootenai Tribal Council	578,839	0.188649
380	Kotzebue Village (IRA)	.....	0.000000
384	Kuskokwim Native Association	187,485	0.061103
385	Kwethluk Village (IRA)	74,077	0.024142
386	Kwigillingok Village (IRA)	.....	0.000000
388	La Jolla Band of Indians	.....	0.000000
391	Lac Courte Oreilles Governing Board	1,867,304	0.608572
392	Lac Du Flambeau Band of Lake Superior Chippewa Indians	1,606,813	0.523676
393	Lac Vieux Desert Band of Lake Superior Chippewa Indians	117,361	0.038249
395	Laguna Pueblo	1,079,794	0.351915
397	Larsen Bay Village	.....	0.000000
398	Las Vegas Tribal Council	.....	0.000000
401	Leech Lake Band of Ojibwe	3,817,921	1.244297
408	Little Singer Community School	.....	0.000000
411	Little Wound School	.....	0.000000
413	Loneman Day School	.....	0.000000
419	Lower Brule Sioux	916,175	0.298590
420	Lower Elwha Community Council	565,188	0.184200
423	Lower Sioux Indian Community Council	.....	0.000000
426	Lummi Nation	1,317,188	0.429284
430	Maine Indian Education	913,752	0.297801
431	Makah Tribal Council	1,031,128	0.336055
440	Manzanita Band of Mission Indians	316,919	0.103287
443	Marty Indian School	.....	0.000000
445	Mashantucket Pequot Tribe	10,680	0.003481
450	Menominee Indian Tribe of Wisconsin	1,846,248	0.601710
452	Mentasta Lake Village	.....	0.000000
453	Mesa Grande Band of Mission Indians	10,967	0.003574
455	Mescalero Apache Tribe	785,315	0.255942
456	Metlakatla Indian Community Council	539,485	0.175823
459	Miami Tribe of Oklahoma	351,057	0.114413

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1993—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1993 net other federal funds (Tribe's column C amount/Total of all column C amounts for 1993)
		Net other federal funds* (1993)	
461	Miccosukee Tribe of Florida Indians	1,007,847	0.328467
463	Mille Lacs Reservation Business Committee	4,665,496	1.520530
464	Minnesota Chippewa Tribal Executive Committee	1,170,300	0.381412
466	Mississippi Band of Choctaw Indians	7,300,058	2.379159
467	Moapa Business Council	422,824	0.137802
471	Concow Maidu Tribe of Mooretown Rancheria	91,373	0.029779
473	Muckleshoot Tribal Council	874,700	0.285073
475	Muscogee (Creek) Nation of Oklahoma	3,876,342	1.263337
479	Pueblo of Nambe	291,274	0.094929
484	Narragansett Indian Tribe	407,842	0.132920
489	Navajo Preparatory School	40,768	0.013287
495	Nett Lake Reservation (Bois Forte) Tribe	872,269	0.284281
502	Nez Perce Tribe	3,733,352	1.216735
507	Nisqually Indian Community Council	1,451,508	0.473060
511	Nome Eskimo Community	.....	0.000000
515	Nooksack Indian Tribe	455,346	0.148402
518	Northern Cheyenne Tribal Schools	407,573	0.132832
519	Northern Cheyenne Tribe	2,399,914	0.782155
521	Northwest Indian Fisheries Commission	251,193	0.081866
522	Northwestern Band of Shoshoni Nation	.....	0.000000
528	Oglala Sioux Tribe	8,925,442	2.908887
530	Ojibwa Indian School	.....	0.000000
534	Omaha Tribe of Nebraska	956,366	0.311689
536	Oneida Tribal Council of Wisconsin	3,563,267	1.161303
540	Osage Tribe of Indians of Oklahoma	1,641,764	0.535067
542	Otoe-Missouria Tribe of Oklahoma	1,180,917	0.384872
548	Paiute Indian Tribe of Utah	70,486	0.022972
551	Paschal Sherman Indian School	.....	0.000000
552	Pascua Yaqui Tribal Council	1,379,178	0.449487
555	Passamaquoddy Tribe—Pleasant Point	438,794	0.143007
557	Pauma Band of Mission Indians	176,877	0.057646
558	Pawnee Tribe of Oklahoma	300,731	0.098011
561	Penobscot Nation	850,365	0.277142
562	Peoria Tribe of Indians of Oklahoma	.....	0.000000
566	Pueblo of Picuris	.....	0.000000
567	Pierre Indian Learning Center	.....	0.000000
574	Pinon Community School Board Inc	.....	0.000000
584	Poarch Band of Creek Indians	662,388	0.215879
587	Point No Point Treaty Council	98,296	0.032036
591	Ponca Tribe of Oklahoma	639,260	0.208341
592	Porcupine Day School	.....	0.000000
593	Port Gamble S'Klallam Tribe	627,661	0.204561
599	Prairie Band Potawatomi Tribe of Kansas	197,214	0.064274
600	Prairie Island Community Council	.....	0.000000
603	Pueblo of Santa Clara	504,374	0.164380
604	Puyallup Tribal Council	801,376	0.261176
606	Pyramid Lake Paiute Tribal Council	393,970	0.128399
609	Quapaw Tribe of Oklahoma	61,505	0.020045
611	Quechan Indian Tribe	957,179	0.311954
612	Quileute Tribal Council	634,426	0.206766
614	Quinault Indian Nation	899,238	0.293070
615	Ramah Navajo School Board Inc	707,173	0.230474
621	Red Cliff Tribal Council	1,542,244	0.502632
629	Redding Rancheria	182,511	0.059482
631	Reno-Sparks Indian Colony	375,711	0.122448
634	Rincon Band of Luiseno Indians	.....	0.000000
638	Rock Point Community School	931,557	0.303603
641	Rosebud Sioux Tribe	4,592,099	1.496609
644	Rough Rock Community School	.....	0.000000
651	Sac and Fox Nation of Oklahoma	549,500	0.179087
653	Sac and Fox Tribal of the Mississippi in Iowa	275,259	0.089710
655	Saginaw Chippewa Tribal Council	285,177	0.092942
660	Salt River Pima-Maricopa Indian Tribe	3,268,904	1.065367

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1993—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1993 net other federal funds (Tribe's column C amount/Total of all column C amounts for 1993)
		Net other federal funds* (1993)	
662	San Carlos Apache Tribal Council	1,103,723	0.359714
663	Pueblo De San Felipe	1,035,393	0.337445
666	San Juan Pueblo	381,069	0.124194
667	San Juan Southern Pauite Indians	41,445	0.013507
672	Sandia Pueblo	.....	0.000000
674	Santa Ana Pueblo	121,303	0.039534
677	Santa Fe Indian School	.....	0.000000
682	Santa Ysabel Band of Diegueno Indians	.....	0.000000
683	Santee Sioux Tribe of Nebraska	394,464	0.128560
685	SaukSuiattle Tribal Council	95,533	0.031135
686	Sault Ste Marie Chippewa Tribal Council	2,809,007	0.915482
693	Selawik Village (IRA)	.....	0.000000
695	Seminole Nation of Oklahoma	850,921	0.277323
696	Seminole Tribe of Florida	3,135,162	1.021779
697	Seneca Nation of Indians	2,354,653	0.767404
698	Seneca-Cayuga Tribe of Oklahoma	162,895	0.053089
700	Shakopee Mdewakanton Sioux Community	.....	0.000000
706	Sherwood Valley Band of Pomo Indians	278,652	0.090815
710	Shiprock Reservation Dormitory	.....	0.000000
712	Shoalwater Bay Tribal Council	71,813	0.023405
716	Joint Business Council Shoshone/Arapaho Tribes	2,815,025	0.917444
718	Shoshone-Bannock Tribe	3,637,932	1.185637
720	Sinte Gleska College	1,352,755	0.440876
721	Sisseton-Wahpeton Sioux Tribe	1,240,488	0.404287
722	Sitka Village (IRA)	104,077	0.033920
724	Skokomish Tribal Council	815,226	0.265690
729	Smith River Rancheria of California	.....	0.000000
732	Sokaogon Chippewa Tribal Council	.....	0.000000
740	Southern Ute Indian Tribe	474,528	0.154653
741	Spirit Lake Sioux Tribe	1,083,863	0.353241
742	Spokane Tribe	1,526,120	0.497377
743	Squaxin Island Tribal Council	199,576	0.065044
744	St. Francis Indian School	.....	0.000000
746	St. Stephens Indian School	395,459	0.128884
747	St. Croix Council of Wisconsin	463,763	0.151145
748	St. Micheals	.....	0.000000
749	St. Regis Mohawk Tribe	1,553,211	0.506206
752	Standing Rock Sioux Tribe	4,357,627	1.420193
759	Stillaguamish Board of Directors	142,729	0.046517
760	Stockbridge-Munsee Tribal Council	880,541	0.286977
764	Summit Lake Paiute Council	.....	0.000000
765	Suquamish Tribal Council	430,675	0.140361
766	Susanville Indian Rancheria	119,196	0.038847
768	Swinomish Indian Tribal Community	405,332	0.132102
778	Taos Pueblo	946,790	0.308568
779	Tate Topa Tribal School (Four Winds)	.....	0.000000
786	Te-Moak Tribe of Western Shoshone	.....	0.000000
789	The Hopi Credit Association	.....	0.000000
794	Three Affiliated Tribes	1,898,917	0.618875
796	Tiospa Zina Tribal School	27,410	0.008933
800	Tohono O'Odham Nation	3,822,642	1.245836
801	Toiyabe Indian Health Project, Inc	562,031	0.183171
806	Tonkawa Tribe of Oklahoma	165,855	0.054054
809	Torres Martinez Desert Cahuilla Indians	209,793	0.068374
817	Tulalip Tribes of Washington	944,034	0.307670
818	Tule River Indian Tribe	438,087	0.142777
820	Tunica-Biloxi Indian Tribe of Louisiana	222,582	0.072542
824	Turtle Mountain Band of Chippewa	4,853,191	1.581702
825	Turtle Mountain Community College	1,505,440	0.490637
830	Twin Buttes Day School	.....	0.000000
844	United Crow Band Inc	.....	0.000000
846	United Sioux Tribes	770,909	0.251247
847	United Tribes Technical College	2,569,622	0.837465

RAMAH NAVAJO CHAPTER—INDEPENDENT CPA'S FINAL SHARE PERCENTAGE SCHEDULE, 1993—Continued

[Prepared Per Paragraphs 11 & 12, Appendix D, Partial Settlement Agreement]

ID	Tribe name	Column C	Tribe's share (%) of total of 1993 net other federal funds (Tribe's column C amount/Total of all column C amounts for 1993)
		Net other federal funds* (1993)	
852	Upper Sioux Community	57,954	0.018888
853	Upper Skagit Tribal Council	325,631	0.106126
854	Ute Indian Tribe	1,527,317	0.497767
855	Ute Mountain Ute Tribe	1,406,014	0.458233
864	Walker River Paiute Tribal Council	234,303	0.076362
865	Wampanoag Tribe of Gay Head (Aquinnah)	51,363	0.016740
870	Washoe Tribe of Nevada and CA	253,133	0.082498
875	White Earth Band of Chippewa Indians	2,865,521	0.933901
879	White Shield School	.....	0.000000
881	Wichita and Affiliated Tribes	263,258	0.085798
884	Winnebago Tribe of Nebraska	1,247,085	0.406437
887	Wounded Knee District School	.....	0.000000
889	Wyandotte Tribe of Oklahoma	353,732	0.115285
890	Yakama Tribal Council	4,697,535	1.530972
892	Yakutat Tlingit Tribe	20,064	0.006539
893	Yankton Sioux Tribe	491,671	0.160240
895	Yavapai-Prescott Board of Directors	97,449	0.031760
896	Yerington Paiute Tribe	227,029	0.073991
897	Yomba Shoshone Tribe	9,102	0.002966
898	Ysleta Del Sur Pueblo	650,759	0.212089
901	Zia Pueblo	41,574	0.013549
902	Zuni Pueblo	4,011,349	1.307337
908	Bay Mills Community College	691,642	0.225413
917	Cglala Lakota Community College	2,287,035	0.745367
920	Cheyenne River Community College	429,669	0.140033
930	Crazy Horse School	.....	0.000000
935	Dibe Yazhi Habitiin Olta, Inc. (Borrego, Pass)	.....	0.000000
940	Dull Knife Memorial College	512,635	0.167073
946	Fort Berthold Community College	.....	0.000000
962	Kickapoo Nation School	.....	0.000000
968	Leupp Boarding School	.....	0.000000
983	Northwest Indian College	2,719,583	0.886338
998	Salish Kootenai College	3,253,199	1.060249
1026	Tuba City Boarding School	.....	0.000000
1033	Wingate Board of Education, Inc	.....	0.000000
1037	Oglala Sioux Tribe Department of Public Safety	.....	0.000000
1039	Great Lakes Indian Fish & Wildlife Commission	154,199	0.050255
1040	1854 Authority	.....	0.000000
1042	Oglala Sioux Parks & Recreation Authority	.....	0.000000
1043	Navajo Area School Board Assoc., Inc	.....	0.000000
1044	Tohatchi Special Edu. & Training Center	157,293	0.051263
1046	Bristol Bay Native Association	.....	0.000000
1047	Columbia River Inter-Tribal Fish Commission	1,529,679	0.498537
1050	Covelo Indian Community Council	.....	0.000000
1051	Dakota Plains Institute of Learning	.....	0.000000
1052	Eeda Consortium of Tribes	.....	0.000000
1053	Great Lakes Inter-Tribal Council	1,426,757	0.464994
1055	Inter-Tribal Council of Michigan, Inc	2,517,216	0.820385
1058	Local Indian Education Committee, Inc	.....	0.000000
1059	Lummi Community College	.....	0.000000
1061	Native American Fish & Wildlife Society	.....	0.000000
1064	North Pacific Rim	.....	0.000000
1065	Northwest Intertribal Court System	64,235	0.020935
1066	Northern Plains Inter-Tribal Court System	.....	0.000000
1070	Sioux City Indian Education Committee	.....	0.000000
1071	Skagit System Cooperative	202,102	0.065867
1072	Sky People Education Committee	.....	0.000000
1073	Turning Point	.....	0.000000
	Total class member	306,833,527	100.000000

*Total Federal Funds shown on Schedule of Federal Financial Assistance less BIA, IHS, construction and other adjustments to delegate non-federal funds.

[FR Doc. 00–30035 Filed 11–22–00; 8:45 am]
BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approval of amendment to Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amendment to the Compact between the Confederated Salish and Kootenai Tribes and the State of Montana Regarding Class III Gaming on the Flathead Reservation, executed on October 17, 2000.

DATES: This action is effective November 24, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: November 9, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–30036 Filed 11–22–00; 8:45 am]
BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved tribal-state compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment VII to the Confederated Tribes of the Warm Springs Reservation of Oregon and the State of Oregon Gaming Compact, which was executed on September 28, 2000.

DATES: This action is effective November 24, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: November 9, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–30037 Filed 11–22–00; 8:45 am]
BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(NM–930–1310–01); (NMNM 28813)]

New Mexico: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease NMNM 28813 for lands in Rio Arriba County, New Mexico, was timely filed and was accompanied by all required rentals and royalties accruing from May 1, 2000, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 per acre or fraction thereof and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and has reimbursed the Bureau of Land Management for the cost of the **Federal Register** notice.

The Lessee has met all the requirements for reinstatement of the lease as set out in sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate the lease effective May 1, 2000, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

For further information contact: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: November 6, 2000.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. 00–29977 Filed 11–22–00; 8:45 am]
BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–040–00–7122–EU–5709; AZA 31123]

Notice of Realty Action; Airport Conveyance; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands in Greenlee County, Arizona have been examined and found suitable for conveyance for airport purposes to the Town of Duncan, a political subdivision, under the provisions of the Airport and Airway Improvement Act of 1982 (96 Stat. 692, 49 U.S.C. 2215).

Gila and Salt River Meridian, Arizona

T. 8 S., R. 31 E.,
Sec. 35, E½E½.
The area described contains 160 acres.

This action is a motion by the Bureau of Land Management to make available lands identified and designated as disposal lands under the Safford District Resource Management Plan, dated August 1991, and are not needed for Federal purposes. Conveyance is consistent with current BLM land use planning and would be in the public interest. Detailed information concerning this action is available for review at the Bureau of Land Management, Safford Field Office, 711 14th Avenue, Safford, Arizona.

The patent when issued will be subject to the following terms, conditions and reservations:

1. A right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals in the land shall be reserved to the United States, together with the right to mine and remove the same under applicable laws and whether such mining and removal of minerals will interfere with the development, operation and maintenance of the airport.

3. All valid existing rights documented on the official public land records at the time of patent issuance.

4. Two rights-of-way under section 28 of the Mineral Leasing Act of 1920, as amended (41 Stat. 437; 30 U.S.C. 185) for oil and gas pipeline purposes granted to El Paso Natural Gas Company (*AZA 004521* and *PHX 0079873*).

5. The property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport or airway purposes or are used in a manner

inconsistent with the terms of the conveyance.

Detailed information concerning this action is available for review at the Bureau of Land Management, Safford Field Office, 711 14th Avenue, Safford, Arizona 85546. Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws. The segregative effect of the notice of realty action will terminate either upon the issuance of a document of conveyance or one year after the date of publication, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed conveyance of the lands to the Field Office Manager, Safford Field Office, 711 14th Avenue, Safford, Arizona 85546.

Dated: November 7, 2000.

Wayne King,

Acting Field Office Manager.

[FR Doc. 00–29978 Filed 11–22–00; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(WY–950–1420–00–P)

Filing of Plats of Survey; Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described land is scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Nebraska

T. 32 N., R. 3 E., the Survey of Tract 37, accepted November 13, 2000

This plat will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest this survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest within thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

If protests against this survey, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s).

FOR FURTHER INFORMATION CONTACT: John P. Lee, (307) 775–6216, Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: November 13, 2000.

John P. Lee,

Chief Cadastral Survey Group.

[FR Doc. 00–29976 Filed 11–22–00; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Assessment Prepared for Proposed Central Gulf Sale 178 on the Gulf of Mexico Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of the environmental assessment on proposed central Gulf of Mexico Lease Sale 178.

SUMMARY: The Minerals Management Service (MMS) has prepared an environmental assessment (EA) for the proposed annual Lease Sale 178 for the Central Planning Area of the Gulf of Mexico Outer Continental Shelf.

In this EA, MMS has reexamined the potential environmental effects of the proposed action and alternatives based on any new information regarding potential impacts and issues that was not available at the time the Final Environmental Impact Statement (FEIS) for Lease Sales 169, 172, 175, 178, and 182 was prepared.

In summary, no new significant impacts were identified for proposed Lease Sale 178 that were not already assessed in the FEIS for Lease Sales 169, 172, 175, 178, and 182. As a result, MMS determined that a supplemental EIS is not required and prepared a Finding of No New Significant Impact.

If you wish to comment, you may mail or hand-carry written comments to the Department of the Interior, Minerals Management Service, Regional Director (MS 5410), Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours.

Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section at the number below. You may obtain single copies of the EA from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394 or by calling 1–800–200–GULF.

Dated: November 17, 2000.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 00–29961 Filed 11–22–00; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Stipulated Settlement Order Pursuant To the Clean Air Act

Notice is hereby given that on November 9, 2000, a proposed stipulated settlement order in *United States* v. *The Detroit Edison Company,* Civil Action No. 99–CV–70171 (consolidated with *The Detroit Edison Company* v. *Michigan Department of Environmental Quality, et al.,* Civil Action No. 98–CV–74129), was lodged with the United States District Court for the Eastern District of Michigan.

In this action, the United States sought injunctive relief and civil penalties under Section 113(b) of the Clean Air Act, 42 U.S.C. 7413(b), for violations of the Clean Air Act's Prevention of Significant Deterioration (''PSD'') regulations, incorporated into the federally approved Michigan State Implementation Plan (''SIP''), the Nonattainment New Source Review (''NSR'') regulations, and the New Source Performance Standards

(''NSPS'') at The Detroit Edison Company's Conners Creek Power Plant in Detroit, Michigan. Specifically, the United States' Compliant alleged that The Detroit Edison Company (i) failed to obtain a PSD permit prior to engaging in extensive renovation activities that Detroit Edison undertook in April through June of 1998 at its Conner Creek Power Plant in Detroit, Michigan, in violation of 42 U.S.C. 7475, 40 CFR 52.21, and Mich. Rule 201.; (ii) failed to obtain a Nonattainment NSR permit for those same activities, in violation of 42 U.S.C. 7503, 40 CFR 51.165, and Mich. Rules 201 and 221.; and (iii) failed to provide U.S. EPA with notifications required under Subpart A of the NSPS prior to the renovation activities, in violation of 40 CFR 60.7(a)(1), 60.7(a)(2), and 60.7(a)(3).

Under the proposed stipulated settlement order, Detroit Edison will pay a civil penalty of $135,000 to the United States, $135,000 to the State of Michigan, $135,000 to Wayne County, and attorneys fees and costs of $45,000 to various citizen groups that intervened in the consolidated actions, to resolve the claims brought under the Clean Air Act and the Michigan SIP. During the pendency of this case, Detroit Edison converted its coal-fired boilers at the Conners Creek facility to natural gas-fired boilers; the conversion satisfied the injunctive relief claims brought in the case.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed stipulated settlement order. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *The Detroit Edison Company,* DOJ Ref. #90–5–2–1–06726.

The proposed stipulated settlement order may be examined at the office of the United States Attorney for the Eastern District of Michigan, 211 W. Fort St., Suite 2300, Detroit, Michigan 48226–3211, and at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604. A copy of the proposed consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy please refer to the referenced case and enclose a check in the amount of $5.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–29979 Filed 11–22–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Emergency Planning and Community Right to Know Act

Pursuant to 28 CFR 50.7, notice is hereby given that a proposed consent decree embodying a settlement in *United States* v. *Foster Poultry Farms*, No. CIV 00–6869 OWW DLB, was lodged on November 1, 2000, with the United States District Court for the Eastern District of California.

In a complaint filed concurrently with the lodging of the consent decree, the United States seeks penalties, pursuant to the Emergency Planning and Community Right to Know Act (EPCRA), 42 U.S.C. 11045, alleging that the defendant failed to submit a Form R reporting that it manufactured, processed, or otherwise used various toxic chemicals for numerous facilities in California and Oregon.

Under the proposed consent decree, the settling defendant has agreed to spend a minimum of $549,000 performing supplemental environmental projects, including the installation and operation of automated anhydrous ammonia leak detection devices at five of its facilities, and the installation and operation of an ammonia refrigeration valve control system at one of its facilities. Settling defendant has also agreed to pay a civil penalty in the amount of $125,000 within thirty days of the entry of the consent decree by the District Court.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, Box 7611 Ben Franklin Station, Washington, D.C. 20044–7611, and should refer to *United States* v. *Foster Poultry Farms*, DOJ Ref. #90–11–2–06483.

The proposed consent decree may be examined at the Office of the United States Attorney for the Eastern District of California, 1130 O Street, Fresno, California 93721. A copy of the proposed consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, Box 7611, Ben Franklin Station, Washington, D.C. 20044–7611. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $4.75 (25 cents per page reproduction costs), payable to the Consent Decree Library. A copy of the decree, exclusive of the signature pages and the attachments, may be obtained for $3.50.

Walker Smith,

Principal Deputy Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 00–29980 Filed 11–22–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The ATM Forum

Notice is hereby given that, on September 29, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), The ATM Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ascom Transmission AG, Berne, SWITZERLAND; Catena Networks, Kanata, Ontario, CANADA; Coreon, Inc., Fremont, CA; Sedona Networks, Kanata, Ontario, CANADA; and Turin Networks, Petaluma, CA have been added as parties to this venture. The following auditing member has upgraded to a principal member: Ascom Transmission AG, Bern, SWITZERLAND. The following members have changed their names: Mitel Semiconductor to Mitel Corporation, Kanata, Ontario, CANADA; and Harris & Jeffries to Netplane Systems, Inc., Dedham, MA.

No other changes have been made in either the membership or planned activities of the group research project. Membership in this group research project remains open, and The ATM Forum intends to file additional written notification disclosing all changes in membership.

On April 19, 1993, The ATM Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section

6(b) of the Act on June 2, 1993 (58 FR 31415).

The last notification was filed with the Department on July 7, 2000. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 11, 2000 (65 FR 49262).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–29984 Filed 11–22–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antritrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—International Magnesium Development Corporation

Notice is hereby given that, on October 23, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), International Magnesium Development Corporation (''IMDC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are International Magnesium Development Corporation, McLean, VA; International Magnesium Association, McLean, VA; Alusuisse Technology & Management AG, Neuhausen am Rheinfall, Switzerland; American Tank & Fabricating Co., Cleveland, OH; A/S Metallic, Skive, Denmark; Alabama Cathodic Metals, Gulf Shores, AL; Alcan Aluminium Ltd., Montreal, Quebec, Canada; ALMAMET GmbH, Ainring, Germany, Amalgamet Canada, Toronto, Ontario, Canada; Andreas Stihl AG & Co. Magnesium Druckguss, Prum-Weinsheim, Germany; Asian Metals & Alloys Corp., Wilmington, DE; Australian Magnesium Corp. Pty, Ltd.; Toowong, Queensland, Australia; AVISMA Titanium-Magnesium Works, Berezniki, Perm Region, Russia; Brochot SCS, Trembley en France, France; CE Marshall Ltd., West Midlands, United Kingdom; Chemische Fabrik Malk GmbH, Koln, Germany; Chemetals Inc., Baltimore, MD; Chicago White Metal Casting, Inc., Bensenville, IL; Contech, Division of SPX Corp., Mishawaka, IN; CLD de la MRC de Franchville, Trois-Rivieres, Quebec, Canada, Dead Sea Magnesium Ltd., Beer-Sheva, Israel; Del Mar Die Casting Co., Gardena, CA; Deutsche Ges. F. Materialkunde, Frankfurt, Germany; Druckgusswerk Moessner Gmbh, Munchen, Germany; Dynacast Inc., Yorktown, NY; E.S.M. II Inc., Amherst, NY, Eckart-Werke, Furth, Germany; EFM e.v., Aalen, Germany; Fabryka Akcesoriow Meblowychul, Chelmno, Poland; Ford Motor Co., Dearborn, MI; Frech USA Inc., Michigan City, IN; Fridrich + Pfuderer GmbH, Ludwigsburg, Germany; Electrolux Motor AB, Huskvarna, Sweden; Garfield Alloys Inc., Garfield Heights, OH; Gibbs Die Casting Corp., Henderson, KY; Gjutal AB, Hultsfred, Sweden; GKSS—Forschungszentrum Geesthact Gmbh, Geesthacht, Germany; Grand Xinihua Mg Powder Industrial Co. Ltd., Beijing, Peoples Republic of China; Halaco Engineering Inc., Oxnard, CA; Haley Industries Ltd., Haley, Ontario, Canada; Hatch & Assoc., Buffalo, NY; Hebei Metals & Minerals, Shi Jia Zhuang, Peoples Republic of China; Hochschild Partners, LLC, New York, NY; Honda R & D Company, Ltd., Saitama, Wako-shi, Japan; Honeywell Int'l Inc., Tempe, AZ; Hydro Magnesium, Brussels, Belgium; IMCO Recycling Inc., Irving, TX; IDRA North America, Kokomo, IN; Industrielle Forschungsgruppe Metallspitzguss, Willich, Germany; Ing. Rauch Fertigingstechnik Ges.m.b.H., Gmunden, Austria; InTerMag Technologies, Inc., Sainte-Foy, Quebec, Canada; ISAF, Glausthal-Zellerfeld, Germany; Intermet Corporation, Troy, MI; Injecta Druckguss AG, Teufenthal, Switzerland; Jyskan Metalli Oy, Jyvaskyla, Findland; Laukotter GmbH, Wadersloh, Germany; Lazarus Metal Resources (UK)LTD, London, United Kingdom; Lexington Die Casting, Lakewood, NY; Lhoist Coordination Ctr., Limelette, Belgium; LM Leichtmetall-Systemtechnik GmbH, Fellbach, Germany,; Lite Metals Co., Ravenna, OH; Lunt Manufacturing Co., Inc., Schaumburg, IL; Magcorp, Salt Lake City, UT; Magnesium Aluminum Corp., Cleveland, OH; Magnesium Elektron Ltd., Manchester, United Kingdom; Magnesium Lite Technologi, Budapest, Hungary; Magnesium Products of Italy SPA, Verres, Italy; Magnesium Services (US) Inc., Calgary, Alberta, Canada; Magtrade BV, Amsterdam, Netherlands; Magnesium Technology Ltd., Auckland, New Zealand; Mark Metals Inc., Whittier, CA; Meridian Magnesium, Strathroy, Ontario, Canada; Metallic Alloys SRL, Riese Pio X, Italy; Miller Plating & Metal Finishing, Inc., Evansville, IN; Morimura Brothers, Inc., Tokyo, Japan; Nanjing Welbow Metals Co., Ltd., Nanjing, Jiansu Province, Peoples Republic of China; Nitek Electronic Co. Ltd., City of Industry, CA; Noranda Magnesium Inc., Franklin, TN; Nordiske Industriovner A/S, Stankge, Norway; Northern Diecast Corp., Harbor Springs, MI; Northwest Alloys, Addy, WA; O.Z. S.P.A., Padova, Italy; N.V. NOM/Antheus Magnesium, AK Groningen, Netherlands; Ortal Diecasting Ltd., Kibbutz Neve-ur, Israel; Oskar Frech GmbH & Co., Schorndorf, Germany, Otto Fuchs Metallwerke, Meinerzhagan, Germany; Pansoinco Trading Ltd. (Eire), Lugano, Switzerland; Phillips Plastics Corp., Menomonie, WI; Pechiney Electronmetallurgie, Haute-Garonne Marignac, France; Pierburg AG, Nettetal, Germany; Prince Machine Corp., Holland, MI Pro. Cat. S.C.A.R.L. Bolzano, Italy; Product Technologies Inc., Maple Lake, MN; Reade Manufacturing Co., Lakehurst, NJ; REMACOR, West Pittsburgh, PA; Rheinkalk HDW GmbH, Scharzfeld, Germany; Rossborough Mfg. Co., Avon Lake, OH; RIMA Industrial S/A, Minas Gerais, Brazil; S.A.M. Technologies, Viviez, France; SAMAG Ltd., Steney, NSW, Australia; S.A. Centre for Manufacturing, Woodville, South Australia, Australia; Schmitz + Apelt LOI, Wuppertal, Germany; SGF Mineral, Montreal, Quebec, Canada; SRC/Rossborough Supply Co., Cleveland, OH; Striko/Dynarda Corp., San Leandro, CA; StrikoWestofen GmbH, Mainz-Kastel, Germany; Solikamsk Magnesium Works, Solikamsk, Perm Region, Russia; Spartan Light Metal Products, Sparta, IL; Specialty Metals Company SA, Brussels, Belgium; Spectrulite Consortium Inc., Madison, IL; Sumitomo Sitix of Amagasaki, Inc., Amagasaki, Hyogo, Japan; TCG Unitech AG, Krems, Austria; Technology Applications Group, Grand Forks, ND; Tek Services Pty. Ltd., Brisbane, Queensland, Australia; The Japan Magnesium Assn., Tokyo, Japan; Thixomat, Inc., Ann Arbor, MI; Tojin Corp., Taipei, Taiwan; Timminco Ltd., Haley, Ontario, Canada; Toensberg Presstoperi AS, Horten, Norway; Torunsa, Bergara, Spain; Trimag, Haley Ontario, Canada; Twin City Die Casting Co., Minneapolis, MN; Ube Industries, Ltd., Tokyo, Japan; Volkswagen AG, Wolfsburg, Germany; Von Roll Management AG, Zuerich, Switzerland; W. Pilling Kesselfabrik GmbH & Co., KG, Altena, Germany; Wogen Resources, Ltd., London, United Kingdom; and Zitzmann Druckguss GmbH, Stockheim, Germany.

The nature and objective of the joint venture is the research evaluation and development of possible alternatives to

SO2/SF6 magnesium melt protection systems, in an effort to develop an alternative system taking into consideration both economic and environmental factors.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–29983 Filed 11–22–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Management Service Providers Association, Inc.

Notice is hereby given that, on October 20, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Management Service Providers Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are 2ndWave, Inc., Dallas, TX; Candle Corporation, El Segundo, CA; Entuity, Inc., New York, NY; Hewlett Packard Open View, Fort Collins, CO; InteQ Corporation, Burlington, MA; iSharp, Redwood City, CA; Luminate, Redwood City, CA; Manage.com, San Jose, CA; ManageIT, Houston, TX; McAfee.com, Sunnyvale, CA; NCMX, Inc., Seattle, WA; Nuclio Corporation, Skokie, IL; SilverBack Technologies, Inc., Billerica, MA; SiteLite, Inc., Rancho Santa Margarita, CA; SiteRock Corporation, Emeryville, CA; Storability, Inc., Southborough, MA; StorageNetworks, Inc., Waltham, MA; TriActive, Inc., Austin, TX; UP 7/24, San Diego, CA; AdventNet, Inc., San Jose, CA; Crystal Group, Inc., Hiawatha, IN; DefendNet Solutions, Inc., Providence, RI; Dirig Software, Nashua, NH; Easy Vista, Beverly, MA; Envive Corporation, Mountain View, CA; FusionStorm, San Francisco, CA; Internet Security Systems, Inc., Atlanta, GA; Logical, Slough SL1 4NL, England, United Kingdom; ManagedStorage International, Inc., Westminster, CO; Mercury Interactive Corp., Sunnyvale, CA; Selis Networks, Inc., San Francisco, CA; Symantec Corporation, Cupertino, CA; Atlaworks, Nashua, NH; Digital Fuel Technologies, Inc., Redwood City, CA; e4e, Inc., Santa Clara, CA; Gomez Networks, Lincoln, MA; InsynQ, Inc., Tacoma, WA; Connected Corporation, Natick, MA; EMC Corporation, Hopkinton, MA; Mission Critical Linux, Inc., Lowell, MA; TimeBridge Technologies, Inc., McLean, VA; NetTasking.com, Singapore 038987, Singapore; StorageWay, Inc., Fremont, CA; CAT Technology, Los Gatos, CA; Freshwater Software, Inc., Boulder, CO; Access360, Irvine, CA; Nitrosoft Linux, Ottawa, Ontario, Canada; Guardent, Inc., Waltham, MA; NetSolve, Austin, TX; Tally Systems Corp, Lebanon, NH; eNetSecure, Inc., Sunnyvale, CA; Coradiant, Inc., Montreal, Quebec, Canada; Telenisus Corp., Rolling Meadows, IL; Agilent Technologies—Firehunter, Fort Collins, CO; Precise Software Solutions Inc., Westwood, MA; BMC Software, Inc., Houston, TX; esavio, Berwyn, PA; Arsenal Digital Solutions, Durham, NC and Aptegrity, Fairfield, NJ. The nature and objectives of the venture are (a) to educate the market, sponsor research, foster standards and articulate the measurable benefits of the management service provider model; (b) to serve as a forum for discussion of related issues, sponsor industry research, develop open standards and guidelines and promote best practices; and (c) to undertake such other activities as may from time to time be appropriate to further the purposes and goals set forth above.

Notwithstanding the foregoing, if the Board of Directors elects to seek and obtain an exemption from Federal taxation for the Corporation pursuant to section 501(a) of the Internal Revenue Code of 1986, as amended, and until such time, if ever, as such exemption is denied or lost, the Corporation shall not be empowered to knowingly engage directly or indirectly in any activity that it believes would be likely to invalidate its status as an organization exempt from federal income taxation under Section 501(a) of the Code as an organization described in Section 501(c) of the Code. Membership in the Corporation remains open and the Corporation intends to file additional written notifications disclosing all changes in membership.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–29982 Filed 11–22–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Salutation Consortium, Inc.

Notice is hereby given that, on September 18, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Salutation Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, National Institute of Standards & Technology, Bethesda, MD; and Daniel Stevenson, Cambridge, MA have been added as parties to this venture. Also, Hewlett-Packard Company, Palo Alto, CA; Hitachi, Ltd., Tokyo, Japan; Mitsubishi Electric Corporation, Tokyo, Japan; Pistachio Software, Inc., Portland, OR; Sharp Corporation, Nara, Japan; TRG Products, Inc., Des Moines, IA; and Walletware, Inc., Irvine, CA have been dropped as parties to this venture. The following members have changed their names: Koos W. Hussem to Square USA, Inc., Basking Ridge, NJ; Shazia Azhar to Consumer Electronics Association, Arlington, VA; MicroBurst to Mburst, Rockville, MD; and Mita to Kyocera Mita, Osaka, Japan.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Salutation Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On March 30, 1995, Salutation Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 27, 1995 (60 FR 33233).

The last notification was filed with the Department on June 19, 2000. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 11, 2000 (64 FR 49266).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–29985 Filed 11–22–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Secure Digital Music Initiative

Notice is hereby given that, on September 21, 2000, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Secure Digital Music Initiative (''SDMI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Amplified.com, Atlanta, GA; Chaw Khong Technology Co., Ltd., Taipei Hsien, Taiwan; Destiny Media Technologies, Inc., Vancouver, British Columbia, Canada; DiscoverMusic.com, Inc., Seattle, WA; Dx3 Europe AB, Stockholm, Sweden; eInnovations (Engineering Innovations), Lanham, MD; France Telecom, Paris, France; Fujitsu Limited, Yamagata, Japan; FullAudio Corp., Chicago, IL; Grundig Digital Systems, San Jose, CA; Internet, GIG.com, Inc., San Francisco, CA; Massive Media Group, Inc., Santa Monica, CA; MCOS, London, United Kingdom; MiBrary.com, Inc., New York, NY; Oberthur Card Systems, Paris, France; Parthus Technologies, Dublin, Ireland; Preview Systems, Inc., Portland, OR; RioPort.com, Inc., San Jose, CA; Siemens AG, Munich, Germany; Telefonica, Madrid, Spain; Verance Corporation, Rockville, MD; and Vitaminic SpA, Torino, Italy have been added as parties to this venture. Also, Audiohighway.com, Cupertino, CA; AudioSoft, Geneva, Switzerland; Be, Incorporated, Menlo Park; CA; Bose Corporation, Framingham, MA; Cductive.com, New York, NY; Channelware, Inc., Nepean, Ontario, Canada; Cinram International, Inc., Ontario, Canada; Deutsche Telekom AG, Bonn, Germany; Digital River Inc., Eden Prairie, MN; DIVX, Herndon, VA; Emusic, Inc., Redwood City, CA; Entrust Technologies, Ontario, Canada; Etantrum, Dulles, VA; ExtraSpecial, Inc., San Francisco, CA; HMV Media Group, Berks, United Kingdom; Infineon Technologies, Munich, Germany; Intervu, Inc., San Diego, CA; Kent Ridge Digital Labs, Heng Mui, Singapore; Media Fair, Inc., Monterey Park, CA; Memory Corporation, Dalkeith, Edinburgh, Scotland, United Kingdom; Music.co.jp, Inc., Tokyo, Japan; NTT Mobile Communications Network, Tokyo, Japan; Plug 'n Pay Technologies, Hauppauge, NY; Qpass, Seattle, WA; Softlock, Rochester, NY; Sonic Solutions, Novato, CA; SpectraNet Communications, Inc.—Throttlebox, Johnson City, NY; Sun Microsystems, Menlo Park, CA; TDK Electronics Corp., Port Washington, NY; Unitech Electronics Co., Ltd., Seoul, Republic of Korea; ViaTech, Inc., Natick, MA; Waveless Radio Consortium, Tokyo, Japan; Xerox Corporation, El Segundo, CA; and Ziplabs PTE Ltd., Singapore Science Park, Singapore have been dropped from the venture.

No other changes have been made made in either the memberships or planned activity of the group research project. Membership in this group research project remains open, and SDMI intends to file additional written notification disclosing all changes in membership.

On June 28, 1999, SDMI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 2, 1999 (64 FR 67591).

The last notification was filed with the Department on June 23, 2000. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 11, 2000 (65 FR 49267).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–29981 Filed 11–22–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Revision of a Currently Approved Collection

ACTION: Notice of review of a revision of a currently approved collection school crime survey (SCS).

The Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 15, 2000, Vol. 65, page 49838, allowing for a 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments until December 26, 2000. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Deputy Clearance Officer, Suite 1220, 1331 Pennsylvania Avenue, NW, Washington, DC 20530.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Revision of a currently approved collection.

(2) *The title of the form/collection:* School Crime Survey (SCS).

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* SCS–1.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals. The School Crime Survey collects, analyzes, publishes, and disseminates statistics on the amount and type of crime committed against persons age 12 or older who attend Middle or Senior High School within the United States. *Other:* None.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 12,200 respondents at 10 minutes per interview.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,038 hours biannual burden.

If additional information is required, contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1220, National Place, 1331 Pennsylvania Avenue, NW, Washington, DC 20530

Dated: November 16, 2000.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 00–29848 Filed 11–22–00; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Reinstatement, with change, of a previously approved collection for which approval has expired; National Survey of Prosecutors.

The Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on September 5, 2000, Vol. 65, page 53751, allowing for a 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments until December 26, 2000. This process is conducted in accordance with 5 CFR 1320, 10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Comments may also be submitted to the Department of Justice (DOJ), Justice management Division, Information Management and Security Staff, Attention: Department Deputy Clearance Office, Suite 1220, 1331 Pennsylvania Avenue, NW, Washington, DC 20530.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* 2000 National Survey of Prosecutors.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number are NSP–5L and NSP–5S, Bureau of Justice Statistics, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, Local or Tribal Government.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that 300 respondents will complete a 30 minute survey form NSP–5L, and 2100 respondents will complete a 20 minute survey from NSP–5S.

(6) An estimate of the total public burden (in hours) associated with the collection: the total hour burden to complete the survey is 850 annual burden hours.

If additional information is required, contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1220, National Place, 1331 Pennsylvania Avenue, NW, Washington, DC 20530.

Dated: November 16, 2000.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 00–29849 Filed 11–22–00; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Classification of High Risk and Special Management Inmates in Prison Systems

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: This cooperative agreement will examine contemporary issues and newer developing topics in prison classification that will concentrate on classification of high risk, aggressive, disruptive and predatory offenders in general population, close custody management units, maximum custody or administrative segregation. This cooperative agreement will also direct attention to special topics such as identification and classification of inmates involved in serious incidents who are mentally ill; assessing risks of younger inmates and sexual predators within prison systems; and application of risk assessment instruments for civil commitments.

The project will encompass offender management, case management and internal classification practices for housing and supervising inmates to promote a safer environment and control serious disruptive behavior. This will include reduction of predatory behavior and assaults on staff or other inmates within the prison setting, and minimizing the need for protective custody and super max or long term segregation placements.

The scope of this project will include but will not be limited to: Conducting research and identifying best policies and practices in prison classification for determining which offenders in general population are the higher risks; determining appropriate levels of supervision and control that are required; determining appropriate housing, program and work assignments; assessing risk to the public as well as to the institution; and examining effective classification and case management methods for transitioning inmates from segregation to general population and from general population to the community at the time of release

Background

The experience of many practitioners and the evidence from available research suggests that within a prison facility, groups of inmates may have the same requirements for a security level but different requirements for supervision and control. For example, some inmates may need confinement in a facility with a secure perimeter but based on their institutional behavior present no serious management problems. Other inmates may be a threat within the facility to other inmates, to staff, or to the orderly operation of the facility.

Better objective classification systems include internal procedures to document and assess institutional misconduct and serious disruptive and assultive behavior, such as escapes, assaults on staff and inmates, and use of weapons, and symptoms of mental illness that need to be clinically assessed, in order to properly classify and provide a safer environment for staff and inmates.

Project Objectives

This project will build capacities in correctional agencies to update and improve objective classification systems by developing better knowledge of research and strategies through appropriate and effective correctional classification practices centered on the identification, classification and management of high risk and special management inmates in prison systems. NIC expects that the project will involve practitioners and correctional experts selected for an Advisory Committee which will assist in identifying the critical concerns of the field; alert the project team to promising classification operational practices; and advise them on what information would be most useful to correctional policy makers, managers and practitioners.

Applications submitted must propose a methodology to involve correctional practitioners in all phases of the effort to strengthen the project's ability to effectively impact correctional policy and operations. The application will also need to identify the people proposed for the Advisory Committee, with at least three individuals who have strong prison operations experience.

Purpose

The purpose of funding this initiative is to conduct research and develop products specifically focused on classification of high risk offenders. These products will include, but will not be limited to, a substantive publication of 100–200 pages and an 8-hour training module, with curriculum and training materials.

The outcomes anticipated from conducting the research and developing the publication and training module are that:

1. Correctional agencies will allocate resources or manage more effectively as a result of objective offender classification systems which promote informed, rational, and consistent decision-making with high-risk offenders.

2. Agencies will be able to better manage and/or reduce offender risks resulting in improved staff, offender, and community safety by using objective classification at key decision points.

3. Agencies will be able to improve information on offender risks and needs and be able to utilize information for planning appropriate intervention strategies as a result of objective classification.

Scope of Work

To address the scope of work, there will need to be a project management team of classification experts that are knowledgeable of correctional operations and principles of objective prison classification; have expertise in assessment, evaluation and validation research; are informed and sensitive to requirements for addressing special needs and management issues; and have demonstrated effectiveness in project management; as well as the ability to write well.

The major components of the work include:

1. Conducting a minimum of two meetings with an Advisory Committee appointed in collaboration and with the approval of NIC to provide a forum for gathering information, feedback and recommendations regarding objective prison classification to address high-risk offenders and inmates who present the most serious management problems and/or disruptive behavior in general population.

2. Identifying current and emerging issues and best practices, and compiling information on correctional research and from correctional agencies on what has been learned and applied successfully regarding sound classification procedures for high risk and special management offenders.

3. Developing an 8-hour training module, the training curriculum, and related training material that can be incorporated into prison classification training programs offered by NIC. At a minimum, this training will:

A. Describe the role of classification in the identification and management of high risk inmates, and reducing disruptive behavior and violence in prison;

B. Highlight findings from research on effective programs and management strategies for high risk inmates and the best practices from the field; and

C. Provide examples of better classification policies and strategies for managing high risk inmates in general population, as well as special management, protective custody and administrative segregation populations.

4. Developing a substantive 100–200 page publication on classification of high risk offenders. In lieu of a single publication, consideration may be given to a proposal for a series of publications dealing with topical issues that could be published together for a comprehensive discussion on classification of high risk offenders.

The publication or publications proposed will require development of a title, description, and format, including objectives and other relevant information sufficient to permit objective review and feedback by the NIC project monitor and selected correctional professionals before formal preparation of the document begins. A bibliography and review of relevant literature will need to be produced in conjunctions with the writing of document(s).

Drafts of documents will be submitted for review by the NIC project monitor and designated correctional professionals within a time frame that will be sufficient for review and revision prior to the conclusion of the project.

In consultation with NIC, documents developed through the cooperative agreement must be submitted as an edited final camera-ready hard copy and 3.5″ computer disk or 100 mg zip drive disk using WordPerfect 7.0 or higher software for use with IBM-compatible computers with Windows operating systems for NIC publication in accordance with the NIC Preparation of Printed Materials for Publication. It will be the responsibility of the award recipient to secure written approval to use copyrighted materials and to provide the original approval with the documents.

If a survey is included in the proposal, the award recipient will be responsible for obtaining written approval in accordance with the Paperwork Reduction Act and providing documentation of that approval prior to conducting a survey. All products from this funding effort will be in the public domain and available to interested parties through the National Institute of Corrections.

The successful applicant will also need to ensure that there will be coordination with the NIC project monitor at critical points in the project development and as necessary to ensure clarity and accomplishment of goals and satisfactory outcomes.

The applicant must provide goals, objectives, and methods of implementation for the project that are consistent with the announcement. Objectives should be clear, measurable, attainable, and focused on the methods used to conduct the project. Applicants should provide an implementation plan for the project and include a schedule which will demonstrate milestones for significant tasks in chart form. Work activities will be coordinated closely with the NIC project monitor. The applicant must plan for the initial meeting with the Advisory Committee to be conducted in the first quarter of the project.

Authority: Public Law 93–415.

Funds Available

The award will be limited to $200,000 (direct and indirect costs) and project activity must begin within 30 days of the date of award and be completed within 12 months. Expenses for conducting the meetings with the Advisory Committee, including their travel, must be incorporated into the proposed budget. No funds will be transferred to state or local governments. Funds may not be used for construction, or to acquire or build real property.

This project will be a collaborative venture with the NIC Prisons Division. All products from this funding effort will be in public domain and available to interested agencies through the National Institute of Corrections.

Deadline for Receipt of Applications

Applications must be received by 4 p.m. on Wednesday, January 10, 2001. They should be addressed to: Director, National Institute of Corrections, 320 First Street NW., Room 5007, Washington, DC 20534. Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. The front desk will call Bobbi Tinsley at (202) 307–3106, extension 0 for pickup.

Addresses and Further Information

Requests for the application kit should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street NW., Room 5007, Washington, DC 20534; or by calling 800–995–6423 ext. 159, 202–307–3106 ext. 159, or e-mail: *jevens@bop.gov.*

A copy of this announcement, application forms may be obtained through the NIC web site: *http://www.nicic.org* (click on ''Cooperative Agreements'').

All technical and/or programmatic questions concerning this announcement should be directed to Sammie Brown, Program Manager, at 320 First Street, NW., Room 5007, Washington, DC 20534; or by calling 800–995–6423 ext. 126, 202–307–3106 ext. 126, or e-mail: *sbrown@bop.gov.*

Eligible Applicants

An eligible applicant is any state or general unit of local government, public or private agency, educational institution, organization, team, or individual with the requisite skills to successfully meet the outcome objectives of the project. Collaborative teams involving practitioners, researchers, and other individuals with expertise and experience in specialized prison classification functional areas are encouraged.

Review Considerations

Applications received under this announcement will be subjected to an NIC Peer Review Process.

Number of Awards

One (1).

NIC Application Number

01P09. This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

Catalog of Federal Domestic Assistance Number

16.602.

Executive Order 12372

This project is not subject to the provisions of Executive Order 12372.

Dated: November 17, 2000.

Larry B. Solomon,

Deputy Director, National Institute of Corrections.

[FR Doc. 00–30034 Filed 11–22–00; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled

''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having on interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Pennsylvania
PA000009 (Feb. 11, 2000)
PA000014 (Feb. 11, 2000)
PA000023 (Feb. 11, 2000)
PA000024 (Feb. 11, 2000)
PA000029 (Feb. 11, 2000)
PA000040 (Feb. 11, 2000)

Volume III

Georgia
GA000032 (Feb. 11, 2000)
GA000073 (Feb. 11, 2000)

Volume IV

Michigan
MI000001 (Feb. 11, 2000)
MI000002 (Feb. 11, 2000)
MI000003 (Feb. 11, 2000)
MI000004 (Feb. 11, 2000)
MI000005 (Feb. 11, 2000)
MI000007 (Feb. 11, 2000)
MI000008 (Feb. 11, 2000)
MI000010 (Feb. 11, 2000)
MI000011 (Feb. 11, 2000)
MI000012 (Feb. 11, 2000)
MI000015 (Feb. 11, 2000)
MI000016 (Feb. 11, 2000)
MI000017 (Feb. 11, 2000)

Volume V

None

Volume VI

None

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 16th day of November 2000.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 00–29846 Filed 11–22–00; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2000–59; Exemption Application No. D–10770, et al.]

Grant of Individual Exemptions; Deutsche Bank and Its Affiliates (Collectively, Deutsche Bank of the Applicants)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Deutsche Bank AG and Its Affiliates (Collectively, Deutsche Bank or the Applicants) Located in Frankfurt, Germany

[Prohibited Transaction Exemption 2000–59; Exemption Application No. D–10770]

Exemption

Section I—Retroactive Exemption for the Acquisition, Holding and Disposition of Deutsche Bank AG Stock

The restrictions of sections 406(a)(1)(D), 406(b)(1) and 406(b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(D) and (E) of the Code, shall not apply, as of June 4, 1999 until Novmeber 24, 2000, to the acquisition, holding and disposition of the common stock of Deutsche Bank AG (the Deutsche Bank AG Stock) by Index and Model-Driven Funds managed by Deutsche Bank, provided that the following conditions and the general conditions in Section III are met:

(a) The acquisition or disposition of the Deutsche Bank AG Stock is for the sole purpose of maintaining strict quantitative conformity with the relevant index upon which the Index or Model-Driven Fund is based, and does not involve any agreement, arrangement or understanding regarding the design or operation of the Fund acquiring the Deutsche Bank AG Stock which is intended to benefit Deutsche Bank or any party in which Deutsche Bank may have an interest.

(b) All aggregate daily purchases of Deutsche Bank AG Stock by the Funds do not exceed on any particular day the greater of:

(1) 15 percent of the average daily trading volume for the Deutsche Bank AG Stock occurring on the applicable exchange and automated trading system (as described in paragraph (c) below) for the previous five (5) business days, or

(2) 15 percent of the trading volume for Deutsche Bank AG Stock occurring on the applicable exchange and automated trading system on the date of the transaction, as determined by the best available information for the trades occurring on that date.

(c) All purchases and sales of Deutsche Bank AG Stock occur either (i) on a recognized securities exchange as defined in Section IV(k) below, (ii) through an automated trading system (as defined in Section IV(j) below) operated by a broker-dealer independent of Deutsche Bank that is subject to regulation and supervision by the Deutsche Bundesbank and the Bundesaufsichtsamt fuer das Kreditwesen (the BAK), the Bundesaufsichtsamt fur den Wertpapierhandel (the BAWe), or another applicable regulatory authority (pursuant to the applicable securities laws) that provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) in a direct, arms-length transaction entered into on a principal basis with a broker-dealer, in the ordinary course of its business, where such broker-dealer is independent of Deutsche Bank and is either registered under the Securities Exchange Act of 1934 (the '34 Act), and thereby subject to regulation by the U.S. Securities and Exchange Commission (SEC), or subject to regulation and supervision by the BAK, the BAWe, or another applicable regulatory authority.

(d) No transactions by a Fund involve purchases from, or sales to, Deutsche Bank (including officers, directors, or employees thereof), or any party in interest that is a fiduciary with discretion to invest plan assets into the Fund (unless the transaction by the Fund with such party in interest would otherwise be subject to an exemption).

(e) No more than five (5) percent of the total amount of Deutsche Bank AG Stock issued and outstanding at any time is held in the aggregate by Index and Model-Driven Funds managed by Deutsche Bank.

(f) Deutsche Bank AG Stock constitutes no more than three (3) percent of any independent third party index on which the investments of an Index or Model-Driven Fund are based.

(g) A plan fiduciary independent of Deutsche Bank authorizes the investment of such plan's assets in an Index or Model-Driven Fund which purchases and/or holds Deutsche Bank AG Stock, pursuant to the procedures described in the notice of proposed exemption published on September 19, 2000 (65 FR 56708, 56714), other than in the case of an employee benefit plan sponsored or maintained by Deutsche Bank and/or an Affiliate for its own employees (a Deutsche Bank Plan).

(h) A fiduciary independent of Deutsche Bank directs the voting of the Deutsche Bank AG Stock held by an Index or Model-Driven Fund on any matter in which shareholders of Deutsche Bank AG Stock are required or permitted to vote.

(i) No more than ten (10) percent of the assets of any Fund that acquires and holds Deutsche Bank AG Stock is comprised of assets of any Deutsche Bank Plan(s) for which Deutsche Bank exercises investment discretion.

Section II—Prospective Exemption for the Acquisition, Holding and Disposition of Deutsche Bank Stock

The restrictions of sections 406(a)(1)(D), 406(b)(1) and 406(b)(2) of the Act, section 8477(c)(2)(A) and (B) of FERSA, and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(D) and (E) of the Code, shall not apply to the acquisition, holding and disposition of Deutsche Bank AG Stock or the common stock of an affiliate of Deutsche Bank AG (Deutsche Bank Affiliate Stock) by Index and Model-Driven Funds managed by Deutsche Bank, provided that the following conditions and the general conditions in Section II are met:

(a) The acquisition or disposition of Deutsche Bank AG Stock or Deutsche Bank Affiliate Stock (collectively, Deutsche Bank Stock) is for the sole purpose of maintaining strict quantitative conformity with the relevant index upon which the Index or Model-Driven Fund is based, and does not involve any agreement, arrangement or understanding regarding the design or operation of the Fund acquiring the Deutsche Bank Stock which is intended to benefit Deutsche Bank or any party in which Deutsche Bank may have an interest.

(b) Whenever Deutsche Bank Stock is initially added to an index on which an Index or Model-Driven Fund is based, or initially added to the portfolio of an Index or Model-Driven Fund, all acquisitions of Deutsche Bank Stock necessary to bring the Fund's holdings of such Stock either to its capitalization-weighted or other specified composition in the relevant index, as determined by the independent organization maintaining such index, or to its correct weighting as determined by the model which has been used to transform the index, occur in the following manner:

(1) Purchases are from, or through, only one broker or dealer on a single trading day;

(2) Based on the best available information, purchases are not the opening transaction for the trading day;

(3) Purchases are not effected in the last half hour before the scheduled close of the trading day;

(4) Purchases are at a price that is not higher than the lowest current independent offer quotation, determined on the basis of reasonable inquiry from non-affiliated brokers;

(5) Aggregate daily purchases do not exceed 15 percent of the average daily trading volume for the security, as determined by the greater of either (i) the trading volume for the security

occurring on the applicable exchange and automated trading system on the date of the transaction, or (ii) an aggregate average daily trading volume for the security occurring on the applicable exchange and automated trading system for the previous five (5) business days, both based on the best information reasonably available at the time of the transaction;

(6) All purchases and sales of Deutsche Bank Stock occur either (i) on a recognized securities exchange (as defined in Section IV(k) below), (ii) through an automated trading system (as defined in Section IV(j) below) operated by a broker-dealer independent of Deutsche Bank that is either registered under the '34 Act, and thereby subject to regulation by the SEC, or subject to regulation and supervision by the BAK, the BAWe, or another applicable regulatory authority, which provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) through an automated trading system (as defined in Section IV(j) below) that is operated by a recognized securities exchange (as defined in Section IV(k) below), pursuant to the applicable securities laws, and provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer; and

(7) If the necessary number of shares of Deutsche Bank Stock cannot be acquired within 10 business days from the date of the event which causes the particular Fund to require Deutsche Bank Stock, Deutsche Bank appoints a fiduciary which is independent of Deutsche Bank to design acquisition procedures and monitor Deutsche Bank's compliance with such procedures.

(c) Subsequent to acquisitions necessary to bring a Fund's holdings of Deutsche Bank Stock to its specified weighting in the index or model pursuant to the restrictions described in paragraph (b) above, all aggregate daily purchases of Deutsche Bank Stock by the Funds do not exceed on any particular day the greater of:

(1) 15 percent of the average daily trading volume for the Deutsche Bank Stock occurring on the applicable exchange and automated trading system (as defined below) for the previous five (5) business days, or

(2) 15 percent of the trading volume for Deutsche Bank Stock occurring on the applicable exchange and automated trading system (as defined below) on the date of the transaction, as determined by the best available information for the trades that occurred on such date.

(d) All transactions in Deutsche Bank Stock not otherwise described in paragraph (b) above are either: (i) Entered into on a principal basis in a direct, arms-length transaction with a broker-dealer, in the ordinary course of its business, where such broker-dealer is independent of Deutsche Bank and is either registered under the '34 Act, and thereby subject to regulation by the SEC, or subject to regulation and supervision by the BAK, the BAWe, or another applicable regulatory authority, (ii) effected on an automated trading system (as defined in Section IV(j) below) operated by a broker-dealer independent of Deutsche Bank that is subject to regulation by either the SEC, the BAK, the BAWe, or another applicable regulatory authority, or an automated trading system operated by a recognized securities exchange (as defined in Section IV(k) below) which, in either case, provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) effected through a recognized securities exchange (as defined in Section IV(k) below) so long as the broker is acting on an agency basis.

(e) No transactions by a Fund involve purchases from, or sales to, Deutsche Bank (including officers, directors, or employees thereof), or any party in interest that is a fiduciary with discretion to invest plan assets into the Fund (unless the transaction by the Fund with such party in interest would otherwise be subject to an exemption).

(f) No more than five (5) percent of the total amount of either Deutsche Bank AG Stock or any Deutsche Bank Affiliate Stock, that is issued and outstanding at any time, is held in the aggregate by Index and Model-Driven Funds managed by Deutsche Bank.

(g) Deutsche Bank Stock constitutes no more than five (5) percent of any independent third party index on which the investments of an Index or Model-Driven Fund are based.

(h) A plan fiduciary independent of Deutsche Bank authorizes the investment of such plan's assets in an Index or Model-Driven Fund which purchases and/or holds Deutsche Bank Stock, pursuant to the procedures described in the notice of proposed exemption published on September 19, 2000 (65 FR 56708, 56714), other than with respect to a Deutsche Bank Plan.

(i) A fiduciary independent of Deutsche Bank directs the voting of the Deutsche Bank Stock held by an Index or Model-Driven Fund on any matter in which shareholders of Deutsche Bank Stock are required or permitted to vote.

(j) No more than ten (10) percent of the assets of any Fund that acquires and holds Deutsche Bank Stock is comprised of assets of Deutsche Bank Plan(s) for which Deutsche Bank exercises investment discretion.

Section III—General Conditions

(a) Deutsche Bank maintains or causes to be maintained for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (b) of this Section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Deutsche Bank, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than Deutsche Bank shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b)(1) Except as provided in paragraph (b)(2) and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (a) of this Section are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a plan participating in an Index or Model-Driven Fund who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan participating in an Index or Model-Driven Fund or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any plan participating in an Index or Model-Driven Fund, or a representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (b) shall be authorized to examine trade secrets of Deutsche Bank or commercial or financial information which is considered confidential.

Section IV—Definitions

(a) The term ''Index Fund'' means any investment fund, account or portfolio sponsored, maintained, trusteed, or managed by Deutsche Bank, in which one or more investors invest, and—

(1) Which is designed to track the rate of return, risk profile and other characteristics of an independently maintained securities Index, as described in Section IV(c) below, by either (i) replicating the same combination of securities which compose such Index or (ii) sampling the securities which compose such Index based on objective criteria and data;

(2) For which Deutsche Bank does not use its discretion, or data within their control, to affect the identity or amount of securities to be purchased or sold;

(3) That contains ''plan assets'' subject to the Act, pursuant to the Department's regulations (see 29 CFR 2510.3–101, Definition of ''plan assets''—plan investments); and,

(4) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund which is intended to benefit Deutsche Bank or any party in which Deutsche Bank may have an interest.

(b) The term ''Model-Driven Fund'' means any investment fund, account or portfolio sponsored, maintained, trusteed, or managed by Deutsche Bank, in which one or more investors invest, and—

(1) Which is composed of securities the identity of which and the amount of which are selected by a computer model that is based on prescribed objective criteria using independent third party data, not within the control of Deutsche Bank, to transform an independently maintained Index, as described in Section IV(c) below;

(2) Which contains ''plan assets'' subject to the Act, pursuant to the Department's regulations (see 29 CFR 2510.3–101, Definition of ''plan assets''—plan investments); and

(3) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund or the utilization of any specific objective criteria which is intended to benefit Deutsche Bank or any party in which Deutsche Bank may have an interest.

(c) The term ''Index'' means a securities index that represents the investment performance of a specific segment of the public market for equity or debt securities in the United States and/or foreign countries, but only if—

(1) The organization creating and maintaining the index is—

(A) Engaged in the business of providing financial information, evaluation, advice or securities brokerage services to institutional clients,

(B) A publisher of financial news or information, or

(C) A public stock exchange or association of securities dealers; and,

(2) The index is created and maintained by an organization independent of Deutsche Bank; and,

(3) The index is a generally accepted standardized index of securities which is not specifically tailored for the use of Deutsche Bank.

(d) The term ''opening date'' means the date on which investments in or withdrawals from an Index or Model-Driven Fund may be made.

(e) The term ''Buy-up'' means an acquisition of Deutsche Bank Stock by an Index or Model-Driven Fund in connection with the initial addition of such Stock to an independently maintained index upon which the Fund is based or the initial investment of a Fund in such Stock.

(f) The term ''Deutsche Bank'' refers to Deutsche Bank AG or an Affiliate, as defined below in paragraph (g).

(g) The term ''Affiliate'' means, with respect to Deutsche Bank AG, an entity which, directly or indirectly, through one or more intermediaries, is controlled by Deutsche Bank AG.

(h) An ''affiliate'' of Deutsche Bank includes:

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with the person;

(2) Any officer, director, employee or relative of such person, or partner of any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(i) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(j) The term ''automated trading system'' means an electronic trading system that functions in a manner intended to simulate a securities exchange by electronically matching orders on an agency basis from multiple buyers and sellers, such as an ''alternative trading system'' within the meaning of the SEC's Reg. ATS [17 CFR Part 242.300], as such definition may be amended from time to time, or an ''automated quotation system'' as described in Section 3(a)(51)(A)(ii) of the ''34 Act [15 U.S.C. 78c(a)(51)(A)(ii)].

(k) The term ''recognized securities exchange'' means a U.S. securities exchange that is registered as a ''national securities exchange'' under Section 6 of the ''34 Act (15 U.S.C. 78f), or a designated offshore securities market, as defined in Regulation S of the SEC [17 CFR Part 230.902(b)], as such definition may be amended from time to time, which performs with respect to securities the functions commonly performed by a stock exchange within the meaning of definitions under the applicable securities laws (e.g., 17 CFR Part 240.3b–16).

EFFECTIVE DATE: This exemption is effective as of June 4, 1999, for those transactions described in Section I above, and as of the date the exemption is published in the **Federal Register** for those transactions described in Section II above.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 19, 2000 at 65 FR 56708.

FOR FURTHER INFORMATION CONTACT: Mr. Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

John L. Rust Co. Profit Sharing Plan (the Plan) Located in Albuquerque, New Mexico

[Prohibited Transaction Exemption 2000–60; Exemption Application No. D–10877]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) The purchases by the Plan of certain leases of equipment (the Leases) from John L. Rust Co. (Rust), the Plan sponsor and a party in interest with respect to the Plan, and (2) the agreement by Rust to indemnify the Plan against any loss relating to the Leases and also to repurchase any Leases that are in default in accordance with paragraph (E) below, provided that the following conditions are met:

A. Any sale of Leases to the Plan is on terms at least as favorable to the Plan as an arm's length transaction with an unrelated third party.

B. Subsequent to September 22, 2000, the acquisition of a Lease from Rust shall not cause the Plan to hold immediately following the acquisition (1) more than 25% of the current value (as that term is defined in section 3(26) of the Act) [1] of Plan assets in customer notes (Notes) and Leases sold by Rust or (2) more than 10% of Plan assets in the

[1] According to section 3(26) of the Act, the term ''current Value'' means fair market value where available and otherwise the fair market value as determined in good faith by a trustee or a named fiduciary pursuant to the terms of the plan and in accordance with regulations of the Secretary [of Labor], assuming an orderly liquidation at the time of such determination.

aggregate of Leases with and Notes of any one entity.

C. Prior to the purchase of each Lease, an independent, qualified fiduciary determines that the purchase is appropriate and suitable for the Plan and that any Lease purchase is a fair market value transaction.

D. The independent fiduciary, on behalf of the Plan, monitors the terms of the Leases and the exemption and takes whatever action is necessary to enforce the rights of the Plan.

E. Upon default by the lessee on any payment due under a Lease, Rust repurchases the Lease from the Plan at the payout value [2] as of the date of the default, without discount, and indemnifies the Plan for any loss suffered. The occurrence of any of the following events shall be considered events of default for purposes of this section: (1) The lessee's failure to pay any amounts due hereunder within five days after receipt of written notice from the Plan's independent fiduciary, or the lessee's failure to pay any amounts due hereunder within 30 days after payment becomes past due, if earlier; (2) the lessee's failure to perform any other obligation under this agreement within ten days of receipt of written notice from the Plan's independent fiduciary; (3) abandonment of the equipment by the lessee; (4) the lessee's cessation of business; (5) the commencement of any proceeding in bankruptcy, receivership or insolvency or assignment for the benefit of creditors by the lessee; (6) false representation by the lessee as to its credit or financial standing; (7) attachment or execution levied on lessee's property; or (8) use of the equipment by third parties without lessor's prior written consent.

F. The Plan receives adequate security for the Lease. For purposes of this exemption, the term adequate security means that the Lease is secured by a perfected security interest in the leased property which will name the Plan as the secured party.

G. Insurance against loss or damage to the leased property from fire or other hazards is procured and maintained by the lessee and the proceeds from such insurance are assigned to the Plan.

H. The Plan maintains for the duration of any Lease which is sold to the Plan pursuant to this exemption, records necessary to determine whether the conditions of this exemption have been met. The Plan continues to maintain the records for a period of six years following the expiration of the Lease or the disposition by the Plan of the Lease. The records referred to above must be unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Plan, during normal business hours by the Internal Revenue Service, the Department, Plan participants, any employee organization any of whose members are covered by the Plan, or any duly authorized employee or representative of the above described persons.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 22, 2000 at 65 FR 57394.

Temporary Nature of Exemption

EFFECTIVE DATES: This exemption is temporary and will be effective from September 21, 2000 through September 21, 2005 with respect to the Plan's purchases of Leases. The Plan may hold the Leases acquired pursuant to the terms of the exemption subsequent to the end of the five year period.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Maple Partners Financial Group, Inc. (Maple) Located in Toronto, Ontario, Canada

[Prohibited Transaction Exemption 2000–61; Exemption Application No. D–10905]

Exemption

Section I—Transactions

A. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective May 31, 2000, to any purchase or sale of securities between certain non-U.S. affiliates of Maple, which are foreign broker-dealers or banks (the Foreign Affiliates, as defined below) and employee benefit plans (the Plans) with respect to which the Foreign Affiliates are parties in interest, including options written by a Plan, Maple, or a Foreign Affiliate, provided that the following conditions, and the General Conditions of Section II, are satisfied:

(1) The Foreign Affiliate customarily purchases and sells securities for its own account in the ordinary course of its business as a broker-dealer or bank;

(2) The terms of any transaction are at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party; and

(3) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice [within the meaning of 29 CFR 2510. 3–21(c)] with respect to those assets, and the Foreign Affiliate is a party in interest or disqualified person with respect to the Plan assets involved in the transaction solely by reason of section 3(14)(B) of the Act or section 4975(e)(2)(B) of the Code, or by reason of a relationship to a person described in such sections. For purposes of this paragraph, the Foreign Affiliate shall not be deemed to be a fiduciary with respect to a Plan solely by reason of providing securities custodial services for a Plan.

B. The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective May 31, 2000, to any extension of credit to the Plan by the Foreign Affiliate, to permit the settlement of securities transactions, regardless of whether they are effected on an agency or a principal basis, or in connection with the writing of options contracts, provided that the following conditions and the General Conditions of Section II, are satisfied:

(1) The Foreign Affiliate is not a fiduciary with respect to the Plan assets involved in the transaction, unless no interest or other consideration is received by the Foreign Affiliate or an affiliate thereof, in connection with such extension of credit; and

(2) Any extension of credit would be lawful under the Securities Exchange Act of 1934 (the 1934 Act) and any rules or regulations thereunder, if the 1934 Act, rules, or regulations were applicable.

C. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective May 31, 2000, to the lending of securities to the Foreign Affiliates by the Plans, provided that the following conditions, and the General Conditions of Section II, are satisfied:

(1) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice [within the meaning of 29 CFR

[2] ''Payout value'' of a Lease is defined as the price that the lessee would pay at any point in time to obtain title to the leased property.

2510. 3–21(c)] with respect to those assets;

(2) The Plan receives from the Foreign Affiliate (by physical delivery, by book entry in a securities depository, wire transfer, or similar means) by the close of business on the day the loaned securities are delivered to the Foreign Affiliate, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, irrevocable U.S. bank letters of credit issued by persons other than the Foreign Affiliate or an affiliate of the Foreign Affiliate, or any combination thereof. All collateral shall be in U.S. dollars, or dollar-denominated securities or bank letters of credit, and shall be held in the United States;

(3) The collateral has, as of the close of business on the preceding business day, a market value equal to at least 100 percent of the then market value of the loaned securities (or, in the case of letters of credit, a stated amount equal to same);

(4) The loan is made pursuant to a written loan agreement (the Loan Agreement), which may be in the form of a master agreement covering a series of securities lending transactions, and which contains terms at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party;

(5) In return for lending securities, the Plan either (a) receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan, or (b) has the opportunity to derive compensation through the investment of cash collateral. In the latter case, the Plan may pay a loan rebate or similar fee to the Foreign Affiliate, if such fee is not greater than what the Plan would pay in a comparable arm's length transaction with an unrelated party;

(6) The Plan receives at least the equivalent of all distributions on the borrowed securities made during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits, and rights to purchase additional securities, that the Plan would have received (net of applicable tax withholdings) [3] had it remained the record owner of such securities;

(7) If the market value of the collateral as of the close of trading on a business day falls below 100 percent of the market value of the borrowed securities as of the close of trading on that day, the Foreign Affiliate delivers additional collateral, by the close of business on the following business day, to bring the level of the collateral back to at least 100 percent. However, if the market value of the collateral exceeds 100 percent of the market value of the borrowed securities, the Foreign Affiliate may require the Plan to return part of the collateral to reduce the level of the collateral to 100 percent;

(8) Before entering into a Loan Agreement, the Foreign Affiliate furnishes to the independent Plan fiduciary (a) the most recent available audited statement of the Foreign Affiliate's financial condition, (b) the most recent available unaudited statement of its financial condition (if more recent than the audited statement), and (c) a representation that, at the time the loan is negotiated, there has been no material adverse change in its financial condition that has not been disclosed since the date of the most recent financial statement furnished to the independent Plan fiduciary. Such representation may be made by the Foreign Affiliate's agreeing that each loan of securities shall constitute a representation that there has been no such material adverse change;

(9) The Loan Agreement and/or any securities loan outstanding may be terminated by the Plan at any time, whereupon the Foreign Affiliate shall deliver certificates for securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization, or merger of the issuer of the borrowed securities) to the Plan within (a) the customary delivery period for such securities, (b) three business days, or (c) the time negotiated for such delivery by the Plan and the Foreign Affiliate, whichever is least, or, alternatively, such period as permitted by Prohibited Transaction Class Exemption (PTE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987), as it may be amended or superseded; [4]

(10) In the event that the loan is terminated and the Foreign Affiliate fails to return the borrowed securities, or the equivalent thereof, within the time described in paragraph 9, the Plan may purchase securities identical to the borrowed securities (or their equivalent as described above) and may apply the collateral to the payment of the purchase price, any other obligations of the Foreign Affiliate under the Loan Agreement, and any expenses associated with the sale and/or purchase. The Foreign Affiliate is obligated to pay, under the terms of the Loan Agreement, and does pay, to the Plan the amount of any remaining obligations and expenses not covered by the collateral, plus interest at a reasonable rate. Notwithstanding the foregoing, the Foreign Affiliate may, in the event it fails to return borrowed securities as described above, replace non-cash collateral with an amount of cash not less than the then current market value of the collateral, provided that such replacement is approved by the independent Plan fiduciary; and

(11) The independent Plan fiduciary maintains the situs of the Loan Agreement in accordance with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)–1. However, in the event that the independent Plan fiduciary does not maintain the situs of the Loan Agreement in accordance with the indicia of ownership requirements of Section 404(b) of the Act, the Foreign Affiliate shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or the taxes imposed by section 4975(a) and (b) of the Code.

If the Foreign Affiliate fails to comply with any condition of the exemption in the course of engaging in a securities lending transaction, the Plan fiduciary who caused the Plan to engage in such transaction shall not be deemed to have caused the Plan to engage in a transaction prohibited by section 406(a)(1)(A) through (D) of the Act solely by reason of the Foreign Affiliate's failure to comply with the conditions of the exemption.

Section II—General Conditions

A. The Foreign Affiliate is a registered broker-dealer or bank subject to regulation by a governmental agency, as described in Section III.B, and is in compliance with all applicable rules and regulations thereof in connection with any transactions covered by this exemption, if granted;

B. The Foreign Affiliate, in connection with any transactions covered by this exemption, is in compliance with the requirements of Rule 15a–6 (17 CFR 240.15a–6) of the

[3] The Department notes the applicant's representation that dividends and other distributions on foreign securities payable to a lending Plan may be subject to foreign tax withholdings and that the Foreign Affiliate will always put the Plan back in at least as good a position as it would have been in had it not loaned the securities.

[4] PTE 81–6 provides an exemption under certain conditions from section 406(a)(1)(A) through (D) of the Act and the corresponding provisions of section 4975(c) of the Code for the lending of securities that are assets of an employee benefit plan to a U.S. broker-dealer registered under the 1934 Act (or exempted from registration under the 1934 Act as a dealer in exempt Government securities, as defined therein) or to a U.S. bank, that is a party in interest with respect to such plan.

1934 Act, and Securities and Exchange Commission (SEC) interpretations thereof, providing for foreign affiliates a limited exemption from U.S. broker-dealer registration requirements;

C. Prior to any transaction, the Foreign Affiliate enters into a written agreement with the Plan in which the Foreign Affiliate consents to the jurisdiction of the courts of the United States for any civil action or proceeding brought in respect of the subject transactions;

D. The Foreign Affiliate maintains, or causes to be maintained, within the United States for a period of six years from the date of any transaction such records as are necessary to enable the persons described in paragraph E. to determine whether the conditions of the exemption have been met, except that—

(1) A party in interest with respect to a Plan, other than the Foreign Affiliate, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or not available for examination, as required by paragraph E; and

(2) A prohibited transaction shall not be deemed to have occurred if, due to circumstances beyond the Foreign Affiliate's control, such records are lost or destroyed prior to the end of the six year period; and

E. Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the Foreign Affiliate makes the records referred to in paragraph D unconditionally available during normal business hours at their customary location to the following persons or a duly authorized representative thereof: (1) The Department, the Internal Revenue Service, or the SEC; (2) any fiduciary of a Plan; (3) any contributing employer to a Plan; (4) any employee organization any of whose members are covered by a Plan; and (5) any participant or beneficiary of a Plan. However, none of the persons described in (2) through (5) of this subsection are authorized to examine the trade secrets of the Foreign Affiliate or commercial or financial information which is privileged or confidential.

Section III—Definitions

A. The term ''affiliate'' of another person shall include: (1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person; (2) any officer, director, or partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and (3) any corporation or partnership of which such other person is an officer, director or partner. For purposes of this definition, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual;

B. The term ''Foreign Affiliate'' shall mean an affiliate of Maple that is subject to regulation as a broker-dealer or bank by (1) the Ontario Securities Commission and the Investment Dealers Association in Canada; (2) the Securities and Futures Authority in the United Kingdom; (3) the Deutsche Bundesbank and the Federal Banking Supervisory Authority, i.e., der Bundesaufsichtsamt fur das Kreditwesen (the BAK) in Germany, and the Federal Securities Trading Supervisory Commission, Bundesaufsichtsamt fur den Wertpapierhandel (the BAWe); and

C. The term ''security'' shall include equities, fixed income securities, options on equity and on fixed income securities, government obligations, and any other instrument that constitutes a security under U.S. securities laws. The term ''security'' does not include swap agreements or other notional principal contracts.

EFFECTIVE DATE: This exemption is effective as of May 31, 2000.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 19, 2000 at 65 FR 56732.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Pembroke Construction Company, Inc. Employees 401(k) Profit Sharing Plan (the Plan) Located in Hampton, Virginia

[Prohibited Transaction Exemption 2000–62; Exemption Application No. D–10915]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of a condominium (the Condo) by Thomas N. Hunnicutt (Mr. Hunnicutt), and his wife Ann N. Hunnicutt, to Mr. Hunnicutt's self-directed individual account (the Account) in the Plan, with respect to which the Hunnicutts are parties in interest; provided that the following conditions are satisfied:

(a) the proposed sale will be a one-time cash transaction;

(b) the Account will pay the current fair market value for the Condo, as established at the time of the purchase by an independent qualified appraiser;

(c) the Account will pay no expenses or commissions associated with the purchase; and

(d) the purchase will enable the Account to acquire the Condo, which is expected to be a valuable asset that will yield significant rental income.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on October 11, 2000 at 65 FR 60469.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department at (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 20th day of November, 2000.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 00–29971 Filed 11–22–00; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Exemption Application D–10608 and D–10609]

Withdrawal of Notice of Proposed Exemption Involving the Millcraft Industries Salaried Employees' Pension Plan and the Millcraft Products, Inc. Hourly Employees' Pension Plan (collectively, the Plans); Located in Canonsburg, PA

In the **Federal Register** dated October 6, 1998 (63 FR 53720), the Department of Labor (the Department) published a notice of proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1986. The notice of proposed exemption, for which retroactive relief had been requested, concerned three cash sales by the Plans of certain third party common stock to Millcraft Industries, Inc., (Millcraft), the sponsor of the Plans and a party in interest.

By letter dated November 3, 2000, Millcraft, its wholly owned subsidiary, Millcraft, Products, Inc., and the trustees of the Plans, informed the Department that they wished to withdraw the notice of proposed exemption.

Accordingly the notice of proposed exemption is hereby withdrawn.

Signed at Washington, D.C., this 20th day of November, 2000.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 00–29972 Filed 11–22–00; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Public Meeting

Date, Time, and Place: Monday, December 4, 2000 from 1:00 p.m. to 5:00 p.m., 342 Dirksen Senate Office Building, First Street and Constitution Avenue, NE., Washington, DC.

Matter To Be Discussed: The public is invited to comment on the proposed recommendations of the National Commission on Libraries and Information Science (NCLIS) resulting from the comprehensive assessment of public information dissemination policies and practices. Information about the assessment is available on the Commission website at *http://www.nclis.gov/govt/assess/assess.html.* The Commission's final report to Congress must be completed by December 15, 2000.

Written comments must be received not later than 9 a.m. Monday, December 11, 2000. Comments may be submitted to the Commission by mail at 1110 Vermont Avenue, NW., Washington, DC 20005–3552, Attn: F. Woody Horton, Ph.D., by fax to 202–606–9203, or by e-mail to *whorton@nclis.gov.*

Individuals and organizations desiring to participate in the public meeting should contact NCLIS Deputy Director Judith C. Russell by fax at 202–606–9203 or by e-mail to *jrussell@nclis.gov,* identifying the speaker and the organization(s) represented by the speaker. Each speaker should bring at least thirty copies of their statement to the meeting as well as providing an electronic copy to the Commission, preferably by e-mail to *jrussell@nclis.gov.* Oral presentations will be limited to five minutes. There will be an opportunity to respond to questions from the Commission, and if time permits, there will be an opportunity for further comments from the audience once all scheduled speakers have made their presentations.

The Commission will select speakers to represent the widest possible range of organizations and points of view in the available time. The Commission is particularly interested in hearing from end users of government information, such as students from elementary school through graduate school, senior citizens, individuals with disabilities, individuals from rural communities, individuals who are economically disadvantaged, researchers, employees of state, local or tribal governments, and small business owners. Other speakers are also welcome, including intermediaries who assist users with government information, such as librarians, information specialists and value-added providers, and representatives of Federal agency information dissemination programs.

Background

The assessment was initiated by NCLIS at the request of Senator John McCain, Chairman, Senate Committee on Commerce, Science, and Transportation and Senator Joseph Lieberman, Ranking Minority Member, Senate Committee on Governmental Affairs. The Commission was asked to identify reforms necessary in the federal government's public information dissemination policies and practices.

The Commission's proposed strategic recommendations were presented at the Commission meeting on November 15, 2000. As a result of that meeting, the Commission decided to hold a public meeting on the December 4th to provide for additional public comment.

In this report the Commission states that the Federal government's public information is a critical national resource that must be exploited to the fullest extent possible. The Commission contends that public information resources are no less important to the nation's economic and social livelihood than are its human, financial, capital, and natural resources. However, exploiting the full potential benefits and values of this resource has not been given top-level national focus, attention, and support.

The Commission believes that there is a missing building block in the nation's public information statutory foundation. A new law is needed, not only to put in place the concept of treating public information as a strategic national asset, but also to make clear the obligation of all government agencies with respect to their public information resources. To that end, every mission agency's authorizing legislation should have a standard clause mandating the dissemination of information to the public, and agencies should directly budget for the cost of implementing that recommendation in their annual budgets.

Diffusing the government's public information resources proactively, broadly, and pervasively throughout all sectors of the economy and the society, for the benefit of all Americans, is a positive, social and moral construct which must be crafted in crystal clear terms in new legislation which spells out both agency obligations and overall national policy leadership and oversight needs.

The complete draft report should be available on the Commission website by Monday, November 27, 2000. A draft Executive Summary of the final report is available at *http://www.nclis.gov/govt/assess/execsum.pdf.*

The proposed legislation should be read and evaluated in the context of the strategic recommendations in the Commission's draft report. The purpose of the proposed legislation is to bring

together in a systematic fashion all of the key elements necessary for comprehensive public information resources management and to elevate the importance of Federal government public information resources to the status of a strategic national asset. It also includes the creation of government-wide information dissemination budget line item in the President's budget and in each agency budget. The Commission believes that this legislative proposal is the best means for implementation of its recommendations because it will draw attention to the issues and create a debate about appropriate solutions. However, many of the Commission's recommendations can and should be implemented, whether or not the proposed legislation is acted upon by the Congress.

Excerpts from the Commission's proposed legislation, The Public Information Resources Reform Act of 2001, are available at *http://www.nclis.gov/govt/assess/legisum.pdf*, as are related fact sheets. In this legislative proposal, the Commission recommends establishment of a public information resources agency in each branch of government. A Fact Sheet summarizing the duties and responsibilities of each agency and explaining how inter-branch coordination is to be accomplished can be found on at *http://www.nclis.gov/govt/assess/branch.html.* A second fact sheet summarizing the Commission's recommendations for strengthening of the Federal Depository Library Program is available at *http://www.nclis.gov/govt/assess/fdlpfact.html.* Additional fact sheets may be added as needed.

FOR FURTHER INFORMATION CONTACT: To request further information or to make special arrangements for persons with disabilities, contact Judith C. Russell by telephone at 202–606–9200, by fax at 202–606–9203 or by e-mail to *jrussell@nclis.gov*, no later than Wednesday, November 29, 2000.

Dated: November 20, 2000.

Robert S. Willard,

NCLIS Executive Director.

[FR Doc. 00–30063 Filed 11–22–00; 8:45 am]

BILLING CODE 7527–01–P

DEPARTMENT OF EDUCATION

National Education Goals Panel; Meeting

AGENCY: National Education Goals Panel.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date and location of a forthcoming meeting of the National Education Goals Panel (NEGP). This notice also describes the functions of the Panel.

DATES AND TIMES: Thursday, December 7, 2000 from 10:00 a.m. to 12:00 p.m.

ADDRESSES: National Press Club, 529 14th Street, NW, Ballroom, 13th Floor, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Ken Nelson, Executive Director, 1255 22nd Street, NW, Suite 502, Washington, DC 20037. Telephone: (202) 724–0015.

SUMMARY: The National Education Goals Panel was established to monitor, measure and report state and national progress toward achieving the eight National Education Goals, and report to the states and the Nation on that progress.

AGENDA ITEMS: The meeting of the Panel is open to the public. Agenda items will include: (1) NEGP's Measuring Success Task Force will present recommendations; (2) The Panel will issue a summary of the public hearings about bringing all students to high standards, convened this year by Governor Tommy Thompson (WI). The Panel will decide what findings and policy recommendations it would like to make on this important subject; and (3) Thank you and farewell expressions will be made to those attending their last Panel meeting (Secretary Riley, Assistant Secretary Michael Cohen, Governors James B. Hunt (NC) and Cecil Underwood (WV) and Executive Director Ken Nelson.

Dated: November 17, 2000.

Ken Nelson,

Executive Director, National Education Goals Panel.

[FR Doc. 00–29941 Filed 11–22–00; 8:45 am]

BILLING CODE 4010–01–M

DEPARTMENT OF STATE

[Public Notice 3479]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: Fulbright Teacher Exchange Orientation Program

SUMMARY: The Office of Global Educational Programs, Fulbright Teacher Exchange Branch of the Bureau of Educational and Cultural Affairs announces an open competition for the Fulbright Teacher Exchange Orientation Program award. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to develop and administer August 2001 orientation activities in Washington, DC. Approximately 570 foreign and U.S. teachers and accompanying dependents will participate in the August 2001 orientation program.

The cooperating institution, through such orientation program activities as formal presentations and workshops, prepares program participants to teach (at the elementary, secondary or college level) in the educational system of another country. Approximately $300,000 are expected to be available for this activity.

The programming specifically strives: (a) To provide U.S. teachers with opportunities to meet face-to-face with their foreign exchange partners to discuss the details of their individual exchange assignments; (b) to provide participants with an understanding of the educational systems in which they will be teaching; and (c) to provide teachers with practical guidance on living in their countries of destination, with particular references to cross-cultural differences.

Program Information

The purpose of the August orientation workshop is to provide U.S. and foreign teachers and their spouses and dependents with a wide range of briefings, training, and discussions to assist them in preparing to function effectively in host schools and communities here and abroad in order to promote the mission of the Fulbright Program—mutual understanding. Partners meet face-to-face and share important information about their workplace and other particulars concerning their individual exchanges.

The workshop should focus on the teachers' need to understand education in the host country, the professional and personal aspects of the exchange and the many aspects of adjustment to living abroad, including cross cultural orientation.

Through the reciprocal exchange of teachers, administrators, and other school or college faculty, foreign participants in the Fulbright Teacher Exchange Program increase the international dimension of U.S. schools, while U.S. participants share American values abroad. Participating countries arrange for non-U.S. teachers to arrive at the U.S. orientation site.

Agenda

The agenda should recognize partner relationship building as a priority by scheduling joint sessions for U.S. and foreign partners in the morning, establishing training objectives for each session, and sequencing sessions to reinforce experiential learning. An

equivalent of one day should be set aside for the U.S. and foreign teachers exchange partners to attend joint sessions and discuss their individual exchanges one-on-one. Sessions for U.S. and foreign teachers should include presentations on educational systems and cross-cultural matters.

A sample detailed agenda, which incorporates the following guidelines, is included in the POGI. The cooperating institution should structure its proposed agenda based on the sample, and propose speakers where appropriate.

Additional Activities

Time constraints should be considered; program sessions and cultural activities must not interfere with the partner joint one-on-one discussions for which an ample amount of time should be allowed.

Speakers

The cooperating institution, in consultation with the Bureau, will be required to identify and invite speakers and panelists to cover all sessions, and demonstrate its ability and willingness to identify such individuals drawing on its own resources as well as other resources beyond the organization. These include universities in the area, consulting groups, or other experts.

Speakers may include State Department specialists, staff from foreign counterpart agencies, university faculty, international and intercultural specialists, former U.S. and foreign exchange teachers, U.S. administrators associated with the program and others. The Bureau must approve speaker/panelist selections.

During the sessions set aside for administrative matters, Bureau staff will specifically designate State Department specialists and staff from foreign counterpart agencies to serve as resource people and speakers. As much as possible, presenters should incorporate Fulbright-specific situations, issues, and materials.

Services

In addition to developing the agenda and securing speakers, the cooperating institution will provide specific services in consultation with Bureau program officers. These will include arranging for on-site housing, meeting rooms, meals, child care, transportation, opening reception, etc. The POGI contains more specific information.

Website

The cooperating institution will be expected to design and maintain a website to increase communication with participants, and to support easy access for participants to information pertaining to the August orientation program. The website should serve as an efficient source of information as well as an administrative tool for functions such as registration.

The website should be clearly identified as a U.S. Department of State Fulbright Teacher Exchange Orientation Website. The orientation information, including agenda, should be posted well in advance and updated as needed.

Reports

The institution will be expected to design and distribute an evaluation form for the August orientation to be completed by the teachers. Such a form will cover program content, including sessions, as well as logistical arrangements such as housing, food, and general meeting facilities. The form must be cleared by Bureau prior to its use.

Materials

The cooperating institution will survey the literature of appropriate subject fields to determine materials of greatest potential value to teachers. If approved by the Bureau, recipient institution will purchase materials, up to $40 per teacher.

The institution will also compile other materials as directed by the Bureau. These may include materials on U.S. education, including current trends and initiatives, and materials on education in selected foreign countries. The POGI contains more specific information.

Note: The Bureau may also request that the cooperating institution arrange additional orientation and/or training, or workshop briefings for program participants and administrators, resource people, and organizers during the award period, depending on the availability of additional funds. The cooperating institution may also be asked to provide programming and other services to the Bureau including, but not limited to, peer committee chairpersons workshops, predeparture orientation activities, foreign and U.S. teacher debriefings, materials purchase and distribution, and the development of new program information, including materials and videos.

Programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

Budget Guidelines

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Applicants must submit a comprehensive budget for the entire program. The FY 2001 orientation award will be approximately $300, 000. Grants are subject to the availability of committed funds for FY 2001.

There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

Administrative costs should be kept low; this will be an important factor in the grant competition. Also, the ability to achieve cost-effectiveness within budget guidelines through cost-sharing will enhance competitive proposals. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number

All correspondence with the Bureau concerning this RFGP should reference the above title and number *ECA/A/S/X–01–03*.

FOR FURTHER INFORMATION CONTACT: United States Department of State, Bureau of Educational and Cultural Affairs, Office of Global Educational Programs, Fulbright Teacher Exchange Branch, State Annex 44, ECA/A/S/X, Room 349, 301 4th Street, SW, Washington, DC 20547; telephone: 202/619–4556, fax: 202/401–1433 to request a Solicitation Package.

The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Ruta Chagnon; e-mail: *RChagnon@pd.state.gov* on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's website at http://exchanges.state.gov/education/RFGPs. Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on January 18, 2001. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure

that the proposals are received by the above deadline. Applicants must follow all instructions in the Solicitation Package. The original and eight copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: *ECA/01–03*, Program Management, ECA/EX/PM, Room 534, 301 4th Street SW, Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a nonpolitical character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socioeconomic status, and physical challenges.

Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal.

Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package.

All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements.

Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality and Clarity of Program Idea

Proposals should exhibit substance, precision, and relevance to Bureau mission. The work plan should demonstrate substantive undertakings and logistical capacity in terms of space utilization, timeliness, and efficient logistical management. Agenda and plan should adhere to the program overview and guidelines described above. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

2. Support of Diversity

Proposals should demonstrate substantive support of the Bureau's policy on diversity by outlining relevant aspects of the institutional profile. Achievable and relevant features should be cited in both program administration and program content (orientation sessions, resource materials and choice of resources).

3. Institutional Capacity and Record/ Ability

Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. Proposals should demonstrate institutional record of successful exchange programs, including responsible fiscal management, and full compliance with all reporting requirements for past Bureau grants as determined by the State Department's Contracts Office. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

4. Project Evaluation

Proposals should include a plan to evaluate the activities' success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives are recommended.

5. Cost-Effectiveness

The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation of the Fulbright-Hays Act.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding.

Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: November 17, 2000.

Helena Kane Finn,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 00–30024 Filed 11–22–00; 8:45 am]

BILLING CODE 4710–05–U

DEPARTMENT OF STATE

Public Notice #3468]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy, reauthorized pursuant to Public Law 106–113 (H.R. 3194, Consolidated Appropriations Act, 2000), will meet on Tuesday, December 12, 2000 in Room 600, 301 4th St., SW, Washington, DC, from 9:30 a.m. to 12 noon.

The Commission will discuss follow-up to its report, the Smith-Mundt Act, plans for a trip to the Far East, and U.S. government exchanges.

Members of the general public may attend the meeting, though attendance of public members will be limited to the seating available. Access to the building is controlled, and individual building passes are required for all attendees. Persons who plan to attend should contact David J. Kramer, Executive Director, at (202) 619–4463.

Dated: November 15, 2000.

David J. Kramer,

Executive Director, U.S. Advisory Commission on Public Diplomacy.

[FR Doc. 00–30021 Filed 11–22–00; 8:45 am]

BILLING CODE 4710–11–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket OST–00–7920.

Application of Paradise Island Airlines, Inc. and Potomac Air, Inc. for Transfer of Commuter Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 2000–11–22).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Potomac Air, Inc., fit, willing, and able to conduct scheduled passenger operations as a commuter air carrier, and transferring to it the commuter authority currently issued to Paradise Island Airlines, Inc.

DATES: Persons wishing to file objections should do so no later than December 4, 2000.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–00–7920 and addressed to the Department of Transportation Dockets (SVC–124.1, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Janet Davis, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (202) 366–9721.

Dated: November 20, 2000.

Susan McDermott,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 00–30033 Filed 11–22–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration, Office of Hazardous Materials Safety

Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Requests for modifications of exemptions (*e.g.*, to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before December 11, 2000.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street, SW, Washington, DC or at *http://dms.dot.gov*.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on November 17, 2000.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

Application No.	Docket No.	Applicant	Modification of exemption
7823–M		Honeywell International, Inc., Morristown, NJ (See Footnote 1)	7823
9149–M		Ethyl Corporation, Richmond, VA (See Footnote 2)	9149
9408–M		Voltaix, Inc., North Branch, NJ (See Footnote 3)	9408
9884–M		Mallinckrodt, Inc. (Puritan Bennett Corp), Indianapolis, IN (See Footnote 4)	9884
10915–M		Luxfer Gas Cylinders (Composite Cylinder Div), Riverside, CA (See Footnote 5)	10915
11826–M		Spectra Gases, Inc., Branchburg, NJ (See Footnote 6)	11826
12065–M	RSPA–1998–3831	International Flavors & Fragrances, Inc., Union Beach, NJ (See Footnote 7)	12065
12068–M	RSPA–1998–3850	United States Sea Launch GP, L.L.C., Long Beach, CA (See Footnote 8)	12068
12540–M	RSPA–2000–7890	Air Products and Chemicals, Inc., Allentown, PA (See Footnote 9)	12540

[1] To modify the exemption to authorize the transportation of certain Class 3 materials in a non-DOT specification cylinder.

[2] To modify the exemption to authorize the transportation of Class 3 and additional Division 6.1 materials in non-DOT specification IMO Type I portable tanks.
[3] To modify the exemption to include 3AA cylinders to be manifolded for the transportation of silicon tetrafluoride.
[4] To modify the exemption to authorize a new pressure vessel design unit for the transportation of certain Division 2.2 materials.
[5] To modify the exemption concerning the requalification and fiber damage criteria of the non-DOT specification fully wrapped carbon-fiber reinforced aluminum lined cylinders for the transportation of various flammable and non-flammable gases.
[6] To modify the exemption to authorize the transportation of additional Division 2.2 materials in DOT–3AL aluminum cylinders.
[7] To modify the exemption to waiver the weight limit requirements for flammable liquids determined by a specially designed flashpoint device.
[8] To authorize an additional lithium battery material to paragraph 6 for the launch vehicle.
[9] To reissue the exemption originally issued on an emergency basis authorizing the transportation of hydrogen fluoride, anhydrous in DOT Specification 51 portable tanks which do not have the relieving capacity requirements.

[FR Doc. 00–29936 Filed 11–22–00; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before December 26, 2000.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building. 400 7th Street, SW, Washington, DC 20590 or at http://dms.dot.gov.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on November 17, 2000.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

New Exemptions

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12561–N	REPA–2000–8305 ...	Rhodia Inc., Cranbury, NJ	49 CFR 172.203(a), 173.31, 179.23.	To authorize the transportation in commerce of DOT Specification 111S100W–2 tank cars that exceed the maximum gross weight limit for use in transporting Class 8 material. (mode 2)
12562–N	REPA–2000–8306 ...	Tae Yang Industrial Co., Ltd., Cheonan-City, South, KR.	49 CFR 173.304(d)(3)(ii) ..	To authorize the transportation in commerce of Division 2.1 hazardous materials in nonrefillable non-DOT specification inside containers conforming to DOT Specification 2P except for size, testing requirements and markings. (modes 1, 2, 3, 4)
12563–N	REPA–2000–8307 ...	Department of Energy, Washington, DC.	49 CFR 173.211	To authorize the one-time transportation of a specifically designed device consisting of ASME AS240 Type 316 stainless steel with wall thickness of 0.33 for use in transporting a Division 4.3 material. (mode 1)
12564–N	REPA–2000–8308 ...	Carleton Technologies Inc., Orchard Park, NY.	49 CFR 173.302	To authorize the transportation in commerce of non-DOT specification pressure vessels similar to specifications 39 for use in transporting helium, Division 2.2. (modes 1, 2, 4)
12567–N	REPA–2000–8311 ...	Honeywell International, Inc., Morristown, NJ.	49 CFR 173.243	To authorize the transportation in commerce of boron trifluoride diethyl etherate, Division 4.3 in non-DOT specification cylinders conforming to specification 4BW. (modes 1, 2, 3)
12571–N	REPA–2000–8315 ...	Air Products & Chemicals, Inc, Allentown, PA.	49 CFR 173.304(a)(2), 173.34(d).	To authorize the transportation in commerce of Division 2.2 material in 3AA, 3A, 3AAX, 3AX cylinders without pressure relief devices. (mode 1)
12573–N	REPA–2000–8317 ...	US Can Company, Elgin, IL.	49 CFR 173.304(e), 173.306(a).	To authorize the transportation in commerce of a non-refillable non-DOT specification container similar to a DOT Specification 2Q for use in transporting certain refrigerant gases, classed as non-flammble aerosols. (modes 1, 2, 3, 4)

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12574–N	REPA–2000–8318 ...	Weldship Corporation, Bethlehem, PA.	49 CFR 172.302(c) (2), (3), (4), (5), Subpart F of Part 180.	To authorize an acoustic emission test in lieu of hydrostatic retest and internal inspection of DOT 107A tubes used for transporting compressed gases. (modes 1, 2, 3)

[FR Doc. 00–29937 Filed 11–22–00; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–325 (Sub–No. 2X)]

Florida Midland Railroad Company—Abandonment Exemption—in Sumter and Lake Counties, FL

On November 6, 2000, Florida Midland Railroad Company (FMRC) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad known as the Leesburg Branch, extending from milepost ST–762.10 in Wildwood to milepost ST–773.71 in Leesburg and from milepost AS–800.76 to milepost AS–802.38 at Leesburg, in Sumter and Lake Counties, FL, a total distance of 13.23 miles. The line traverses U.S. Postal Service Zip Codes 34785 and 34748 and includes the stations of Wildwood, Bamboo, and Leesburg.

The line does not contain federally granted rights-of-way. Any documentation in FMRC's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by February 23, 2001.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than December 14, 2000. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–325 (Sub-No. 2X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Thomas J. Litwiler, Two Prudential Plaza, Suite 3125, 180 North Stetson Ave., Chicago, IL 60601–6721. Replies to the FMRC petition are due on or before December 14, 2000.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: November 15, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–29730 Filed 11–22–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 162X); STB Docket No. AB–576 (Sub-No. 1X)]

Union Pacific Railroad Company—Abandonment Exemption—in Bexar County, TX; and Alamo Gulf Coast Railroad Company—Discontinuance of Service Exemption—in Bexar County, TX

Union Pacific Railroad Company (UP) and Alamo Gulf Coast Railroad Company (AGCR) have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* for UP to abandon a 3.49-mile line of railroad on the Kerrville Subdivision (the Line) near Leon Springs from milepost 256.00 near Russell Park to milepost 259.49 near Camp Stanley; and for AGCR to discontinue service over a 1.0-mile portion of the line from milepost 256.0 to milepost 257.0, in Bexar County, TX. The line traverses United States Postal Service Zip Codes 78256 and 78257.

UP and AGCR have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal

expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on December 26, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 4, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 14, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representatives: James P. Gatlin, General Attorney, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179; and Richard A. Allen, Zuckert Scoutt & Rasenberger, LLP, 888 17th Street, NW., Suite 700, Washington, DC 20006. If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP and AGCR have filed an environmental report which addresses the effects of the abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by December 1, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by November 24, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: November 15, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–29729 Filed 11–22–00; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Domestic Finance

Notice of Open Meeting of the Advisory Committee, U.S. Community Adjustment and Investment Program

The Department of the Treasury, pursuant to the North American Free Trade Agreement (''NAFTA'') Implementation Act (Pub. L. 103–182) (the ''Act''), established an advisory committee (the ''Advisory Committee'') for the community adjustment and investment program (the ''Program'') authorized by the Act. The Program provides financing to create or preserve jobs in communities adversely impacted by NAFTA. The charter of the Advisory Committee has been filed inaccordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463), with the approval of the Secretary of the Treasury.

The Advisory Committee consists of eight members of the public, appointed by the President, who collectively represent: (1) Community groups whose constituencies include low-income families; (2) scientific, professional, business, nonprofit, or public interest organizations or associations, which are neither affiliated with, nor under the direction of, a government; and (3) for-profit business interests.

The objectives of the Advisory Committee are to: (1) Provide informed advice to the President regarding the implementation of the Program; and (2) review on a regular basis, the operation of the Program, and provide the President with the conclusions of its review. Pursuant to Executive Order No. 12916, dated May 13, 1994, the President established an interagency Finance Committee to implement the Program and to receive, on behalf of the President, advice of the Advisory Committee. The Finance Committee is chaired by the Secretary of the Treasury or his designated representative.

A meeting of the Advisory Committee, which will be open to the public, will be held in Washington, D.C. at the Marriott Hotel at Metro Center, 775 12th Street, NW., Washington, D.C. 20005 (Tel. 202–737–2200) from 9 a.m. to 3 p.m. on Monday, December 11, 2000. The exact location of the meeting room will be posted in the hotel lobby on the day of the meeting. The meeting room will accommodate approximately 50 persons and seating is available on a first-come, first-serve basis, unless space has been reserved in advance. Due to limited seating, prospective attendees are encouraged to contact the person listed below prior to December 5, 2000.

The purpose of the meeting is to review the operations of the Program, and to provide the Finance Committee with advice regarding the conclusions of its review and other implementation issues. Specifically, the meeting would review the recent status of, and anticipated activities of, the three Program components, namely, the federal agency program, the direct loan program, and the grant program.

If you would like to have the Advisory Committee consider a written statement, material must be submitted to the U.S. Community Adjustment and Investment Program, Advisory Committee, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 5017, Washington, D.C. 20220 no later than December 5, 2000. If you have any questions, please call Jean Whaley at (202) 622–0741 (Please note that this telephone number is not toll-free.)

Harry M. Haigood,

Deputy Assistant Secretary, Government Financial Policy.

[FR Doc. 00–29962 Filed 11–22–00; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of amendment to system of records.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that VA is amending the system of records currently entitled ''Decentralized Hospital Computer Program (DHCP) Medical Management Records'' (79VA162) as set forth in the

Federal Register 56 FR 6048. VA is amending the system by revising the System Name and number and the paragraphs for System Location, Categories of Records in the System, Authority for Maintenance of the System, Routine Uses of Records Maintained in the System, and System Manager. The change in name will more accurately identify the system and the change in number will reflect organizational changes. VA is republishing the system notice in its entirety.

DATES: Comments on the amendment of this system of records must be received no later than December 26, 2000. If no public comment is received, the new system will become effective December 26, 2000.

ADDRESSES: Written comments concerning the amendment to this system of records may be submitted to the Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Veterans Health Administration (VHA) Privacy Act Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (727) 320–1839.

SUPPLEMENTARY INFORMATION: The name and number of the system is changed from ''Decentralized Hospital Computer Program (DHCP) Medical Management Records-VA'' (79VA162) to the ''Veterans Health Information Systems and Technology Architecture (VistA) Records-VA'' (79VA19). The change in name will more accurately reflect the new, open system, client-server based environment and the change in system number will reflect organizational changes. The System Location was amended to reflect the current organization structure with Veterans Integrated Service Network Offices having replaced Regional Director Offices. Categories of Records in the System were amended to add five new types of records maintained in VistA. The Authority for Maintenance of the System was amended to reflect current codification of the statute. The System Manager was amended to reflect organization changes.

Background

In the 1980s the Veterans Health Administration (VHA) developed an electronic health care architecture called the Decentralized Hospital Computer Program (DHCP) that was comprised of software applications that were integrated into a complete hospital information system primarily for hospital-based activities. DHCP was installed at VA medical facilities to provide comprehensive support for clinical and administrative needs and for VA-wide management information. By 1990, VHA upgraded computer capacity at all medical facilities and implemented software on a national scale that supported integrated health care delivery. In 1996, VHA introduced the Veterans Health Information Systems and Technology Architecture (VistA), a client-server architecture that tied together workstations and personal computers and supported the day-to-day operations at all health care facilities.

The purpose of the system of records is to provide a repository for the administrative information that is used to accomplish the purposes described. The records include information provided by applicants for employment, employees, volunteers, trainees, contractors and subcontractors, consultants, maintenance personnel, students, patients, and information obtained in the course of routine work done. Quality assurance information that is protected by 38 U.S.C. 7311 and 38 CFR 17.500–17.511 is not within the scope of the Privacy Act and, therefore, is not included in this system of records or filed in a manner in which the information may be retrieved by reference to an individual identifier.

Data stored in VistA is used to prepare various management, tracking and follow-up reports that are used to assist in the management and operation of the health care facility, and the planning and delivery of patient medical care. Data may be used to track and evaluate patient care services; the distribution and utilization of resources; and the performance of vendors and employees. The data may also be used for such purposes as scheduling employees' tours of duty and for scheduling patient treatment services including nursing care, clinic appointments, surveys, diagnostic and therapeutic procedures. Data may also be used to track the ordering, delivery, maintenance and repair of equipment and for follow-up to determine if the actions were accomplished and to evaluate the results.

Routine use disclosures have been added, as described below, to enable efficient administration and operation of health care facilities and to assist in the planning and delivery of patient medical care:

- Routine use twenty-three (23) states the social security number, universal personal identification number and other identifying information of a health care provider may be disclosed to a third party where the third party requires the agency to provide that information before it will pay for medical care provided by VA. VA, under Public Law 99–272, is required to recover costs for medical services in certain circumstances provided to the veteran from the veteran's third party insurance carrier. Third party insurance carriers may require VA to provide the social security number(s) of the health care provider(s) before reimbursing VA for medical services rendered.
- Routine use twenty-four (24) states relevant information may be disclosed to individuals, organizations, private or public agencies, etc., with whom VA has a contract or agreement to perform such services as VA may deem practical for the purposes of laws administered by VA, in order for the contractor to perform the services of the contract or agreement. This routine use is being added to allow for the disclosure of information to contractors when performing an agency function. VA must be able to share information with contractors.
- Routine use twenty-five (25) allows disclosure of relevant health care information to individuals or organizations (private or public) with whom VA has a contract or sharing agreement for the provision of health care, administrative or financial services. VA must be able to share information with other organizations participating in the care of veterans.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of Office of Management and Budget (OMB), as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (61 FR 6428), February 20, 1996.

Approved: November 8, 2000.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

79VA19

SYSTEM NAME:

Veterans Health Information Systems and Technology Architecture (VistA) Records-VA.

SYSTEM LOCATION:

Records are maintained at each VA health care facility (in most cases, back-up computer tape information is stored at off-site locations). Address locations for VA facilities are listed in VA

Appendix 1. In addition, information from these records or copies of records may be maintained at the Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, VA Data Processing Centers, VA Chief Information Officer (CIO) Field Offices, and Employee education Systems.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records include information concerning current and former employees, applicants for employment, trainees, contractors, sub-contractors, contract personnel, students, providers and consultants, patients and members of their immediate family, volunteers, maintenance personnel, as well as individuals working collaboratively with VA.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records may include information related to:

1. Workload such as orders entered, verified, and edited (e.g., engineering work orders, doctors' orders for patient care including nursing care, the scheduling and delivery of medications, consultations, radiology, laboratory and other diagnostic and therapeutic examinations); results entered; items checked out and items in use (e.g., library books, keys, x-rays, patient medical records, equipment, supplies, reference materials); work plans entered and the subsequent tracking (e.g., construction projects, engineering work orders and equipment maintenance and repairs assigned to employees and status, duty schedules, work assignments, work requirements); reports of contact with individuals or groups; employees (including volunteers) work performance information (e.g., duties and responsibilities assigned and completed, amount of supplies used, time used, quantity and quality of output, productivity reports, schedules of patients assigned and treatment to be provided);

2. Administrative procedures, duties, and assignments of certain personnel;

3. Computer access authorizations, computer applications available and used, information access attempts, frequency and time of use; identification of the person responsible for, currently assigned, or otherwise engaged in various categories of patient care or support of health care delivery; vehicle registration (motor vehicles and bicycles) and parking space assignments; community and special project participants/attendees (e.g., sports events, concerts, National Wheelchair Games); employee work-related accidents. The record may include identifying information (e.g., name, date of birth, age, sex, social security number, taxpayer identification number); address information (e.g., home and/or mailing address, home telephone number, emergency contact information such as name, address, telephone number, and relationship); information related to training (e.g., security, safety, in-service), education and continuing education (e.g., name and address of schools and dates of attendance, courses attended and scheduled to attend, grades, type of degree, certificate, etc.); information related to military service and status; qualifications for employment (e.g., license, degree, registration or certification, experience); vehicle information (e.g., type make, model, license and registration number); evaluation of clinical and/or technical skills; services or products purchased (e.g., vendor name and address, details about and/or evaluation of service or product, price, fee, cost, dates purchased and delivered, employee workload and productivity data); employee work-related injuries (cause, severity, type of injury, body part affected);

4. Financial information, such as service line and clinic budgets, projected and actual costs;

5. Supply information, such as services, materials and equipment ordered;

6. Abstract information (e.g., data warehouses, environmental and epidemiological registries, etc.) is maintained in auxiliary paper and automated records;

7. Electronic messages; and

8. The social security number and universal personal identification number of health care providers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, section 7301(a).

PURPOSE(S):

The records and information may be used for statistical analysis to produce various management, workload tracking and follow-up reports; to track and evaluate the ordering and delivery of equipment, services and patient care; the planning, distribution and utilization of resources; the possession and/or use of equipment or supplies; the performance of vendors, equipment, and employees; and to provide clinical and administrative support to patient medical care. The data may be used for research purposes. The data may be used also for such purposes as assisting in the scheduling of tours of duties and job assignments of employees; the scheduling of patient treatment services, including nursing care, clinic appointments, surgery, diagnostic and therapeutic procedures; the repair and maintenance of equipment and for follow-up to determine that the actions were accomplished and to evaluate the results; the registration of vehicles and the assignment and utilization of parking spaces; to plan, schedule, and maintain rosters of patients, employees and others attending or participating in sports, recreational or other events (e.g., National Wheelchair Games, concerts, picnics); for audits, reviews and investigations conducted by staff of the health care facility, the Network Directors Office, VA Central Office, and the VA Office of Inspector General (OIG); for quality assurance audits, reviews, investigations and inspections; for law enforcement investigations; and for personnel management, evaluation and employee ratings, and performance evaluations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To the extent that records contained in the system include information protected by 38 U.S.C. 7332, i.e., medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus, that information cannot be disclosed under a routine use unless there is also specific statutory authority permitting disclosure.

1. In the event that a record maintained by VA to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, information may be disclosed to the appropriate agency whether Federal State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

2. Disclosure may be made to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability

investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefits.

3. Disclosure may be made to an agency in the executive, legislative, or judicial branch, or the District of Columbia's government in response to its request or at the initiation of VA, in connection with the hiring of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the letting of a contract, the issuance of a license, grant, or other benefits by the requesting agency, or the lawful statutory, administrative, or investigative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's decision.

4. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

5. Disclosure may be made to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

6. Disclosure may be made to the Department of Justice and United States attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

7. Hiring, performance, or other personnel-related information may be disclosed to any facility with which there is or there is proposed to be an affiliation, sharing agreement, contract, or similar arrangement for purposes of establishing, maintaining, or expanding any such relationship.

8. Disclosure may be made to a Federal, State or local government licensing board and/or to the Federation of State Medical Boards or a similar non-government entity which maintains records concerning individual employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registration necessary to practice an occupation, profession or specialty; in order for the Department to obtain information relevant to a Department decision concerning the hiring, retention or termination of an employee; or to inform a Federal agency, licensing boards or the appropriate non-government entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients receiving medical care in the private sector or from another Federal agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

9. For program review purposes, and the seeking of accreditation and/or certification, disclosure may be made to survey teams of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), College of American Pathologists, American Association of Blood Banks, and similar national accreditation agencies or boards with whom VA has a contract or agreement to conduct such reviews but only to the extent that the information is necessary and relevant to the review.

10. Disclosure may be made to a State or local government entity or national certifying body which has the authority to make decisions concerning the issuance, retention or revocation of licenses, certifications or registrations required to practice a health care profession, when requested in writing by an investigator or supervisory official of the licensing entity or national certifying body for the purpose of making a decision concerning the issuance, retention or revocation of the license, certification or registration of a named health care professional.

11. Any information which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal, State, local or foreign agency charged with the responsibility of investigating or prosecuting such violation, rule or order issued pursuant thereto.

12. Disclosure may be made to officials of labor organizations under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matter affecting working conditions.

13. Disclosure may be made to the VA-appointed representative of an employee, including all notices, determinations, decision, or other written communications issued to the employee in connection with an examination ordered by VA under medical evaluation (formerly fitness-for-duty) examination procedures or Department-filed disability retirement procedures.

14. Disclosure may be made to officials to the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

15. Disclosure may be made to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discrimination practices, examination of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

16. Disclosure may be made to the Federal Labor Relations Authority, including its General Counsel, when requested in connection with investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator awards when a question of material fact is raised and matters before the Federal Service Impasses Panel.

17. Disclosure may be made in consideration and selection of employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors.

18. Disclosure may be made to consider employees for recognition through administrative and quality step increases and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee recognition.

19. Identifying information such as name, address, social security number and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners and at other times as deemed necessary by VA in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention or termination of the applicant or employee.

20. Disclosure of relevant information may be made to the National Practitioner Data Bank or to a State or

local government licensing board which maintains records concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through a peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement) of, or in satisfaction of a judgment in a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

21. Disclosure of medical record data, excluding name and address, unless name and address is furnished by the requester, may be made to epidemiological and other research facilities for research purposes determined to be necessary and proper, and approved by the Under Secretary for Health.

22. Disclosure of name(s) and address(es) of present or former personnel of the Armed Services, and/or their dependents, may be made to: (a) A Federal department or agency, at the written request of the head or designee of that agency; or (b) directly to a contractor or subcontractor of a Federal department or agency, for the purpose of conducting Federal research necessary to accomplish a statutory purpose of an agency. When disclosure of this information is made directly to a contractor, the VA may impose applicable conditions on the department, agency, and/or contractor to insure the appropriateness of the disclosure to the contractor.

23. The social security number, universal personal identification number and other identifying information of a health care provider may be disclosed to a third party where the third party requires the agency to provide that information before it will pay for medical care provided by VA.

24. Relevant information may be disclosed to individuals, organizations, private or public agencies, etc., with whom VA has a contract or agreement to perform such services as VA may deem practical for the purposes of laws administered by VA, in order for the contractor to perform the services of the contract or agreement.

25. Disclosure of relevant health care information may be made to individuals or organizations (private or public) with whom VA has a contract or sharing agreement for the provision of health care, administrative or financial services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper, microfilm, magnetic tape, disk, or laser optical media. In most cases, copies of back-up computer files are maintained at off-site locations.

RETRIEVABILITY:

Records are retrieved by name, social security number or other assigned identifiers of the individuals on whom they are maintained.

SAFEGUARDS:

1. Access to VA working and storage areas is restricted to VA employees on a ''need-to-know'' basis. Strict control measures are enforced to ensure that disclosure to these individuals is also based on this same principle. Generally, VA file areas are locked after normal duty hours and the facilities are protected from outside access by the Federal Protective Service or other security personnel.

2. Access to computer rooms at health care facilities is generally limited by appropriate locking devices and restricted to authorized VA employees and vendor personnel. Automated Data Processing (ADP) peripheral devices are placed in secure areas (areas that are locked or have limited access) or are otherwise protected. Information in VistA may be accessed by authorized VA employees. Access to file information is controlled at two levels. The systems recognize authorized employees by series of individually unique passwords/codes as a part of each data message, and the employees are limited to only that information in the file which is needed in the performance of their official duties. Information that is downloaded from VistA and maintained on personal computers is afforded similar storage and access protections as the data that is maintained in the original files. Access to information stored on automated storage media at other VA locations is controlled by individually unique passwords/codes. Access by Office of Inspector General (OIG) staff conducting an audit, investigation, or inspection at the health care facility, or an OIG office location remote from the health care facility, is controlled in the same manner.

3. Information downloaded from VistA and maintained by the OIG headquarters and Field Offices on automated storage media is secured in storage areas for facilities to which only OIG staff have access. Paper documents are similarly secured. Access to paper documents and information on automated storage media is limited to OIG employees who have a need for the information in the performance of their official duties. Access to information stored on automated storage media is controlled by individually unique passwords/codes.

RETENTION AND DISPOSAL:

Paper records and information stored on electronic storage media are maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for policies and procedures is the Associate Chief Information Officer, Technical Services (192), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. The local official responsible for maintaining the system is the Director of the facility where the individual is or was associated.

NOTIFICATION PROCEDURE:

Individuals who wish to determine whether this system of records contains information about them should contact the VA facility location at which they are or were employed or made or have contact. Inquiries should include the person's full name, social security number, dates of employment, date(s) of contact, and return address.

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to and contesting of records in this system may write, call or visit the VA facility where they are or were employed or made contact.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by the individual, supervisors, other employees, personnel records, or obtained from their interaction with the system.

[FR Doc. 00–29945 Filed 11–22–00; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 65, No. 227

Friday, November 24, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530]

Arizona Public Service Company, et al. Palo Verde Nuclear Generating Station, Units 1,2, and 3; Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring of El Paso Electric Company and Conforming Amendments, and Opportunity for a Hearing

Correction

In notice document 00–28125 beginning on page 65885 in the issue of Thursday, November 2, 2000, make the following correction:

On page 65886, in the second column, in the third full paragraph, in the third line, ''December 1, 2000'' should read ''December 4, 2000''.

[FR Doc. C0–28125 Filed 11–22–00; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–298]

Nebraska Public Power District; Notice of Withdrawal of Application for Amendment to Facility Operating License

Correction

In notice document 00–28123 appearing on page 65886 in the issue of Thursday, November 2, 2000, **DEPARTMENT OF ENERGY** was inadvertently added and should be removed.

[FR Doc. C0–28123 Filed 11–22–00; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

Correction

In notice document 00–28121 appearing on page 65887 in the issue of Thursday, November 2, 2000, **DEPARTMENT OF ENERGY** was inadvertently added and should be removed.

[FR Doc. C0–28121 Filed 11–22–00; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–328]

Tennessee Valley Authority; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

Correction

In notice document 00–28122 appearing on page 65887 in the issue of Thursday, November 2, 2000, **DEPARTMENT OF ENERGY** was inadvertently added and should be removed.

[FR Doc. C0–28122 Filed 11–22–00; 8:45 am]

BILLING CODE 1505–01–D

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Systems of Records

Correction

In notice document 00–27537 beginning on page 64266 in the issue of Thursday October 26, 2000, make the following correction:

On page 64273, in the third column, in the sixth line from the bottom, ''respiratory'' should read ''repository''

[FR Doc. C0–27537 Filed 11–22–00; 8:45 am]

BILLING CODE 1505–01–D

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Health Care

Correction

In rule document 00–29523 beginning on page 69432 in the issue of Friday, November 17, 2000, make the following correction:

§121.201 [Corrected]

On page 69439, in §121.201, in the table under ''Subsector 622–Hospitals'', in the third entry, ''$5.0'' should read ''$25.0''.

[FR Doc. C0–29523 Filed 11–22–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
November 24, 2000

Part II

Department of Commerce

Economic Development Administration

Economic Adjustment Assistance—Availability of Funds for Hurricane Floyd and Other Disasters; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 001103311–0311–01]

RIN 0610–ZA17

Economic Adjustment Assistance—Availability of Funds for Hurricane Floyd and Other Disasters

AGENCY: Economic Development Administration (EDA), Department of Commerce (DoC).

ACTION: Funding notice.

SUMMARY: The Economic Development Administration (EDA) announces the availability of $55.8 million for economic adjustment assistance to support disaster recovery programs designed to assist affected states and local communities recover from the consequences of Hurricane Floyd and other recent disasters. Eligible activities include planning assistance, construction grants, and capitalization of revolving loan funds (technical assistance, if incidental, may be appropriate) to assist in the recovery efforts of communities impacted by Hurricane Floyd and other recent disasters. Of the appropriated funds, $49.9 million (which includes $30 million for New Jersey) will be available to assist communities impacted by Hurricane Floyd. (The most serious economic impacts of the hurricane were concentrated in the States of North Carolina, New Jersey and Virginia.) Funds in the amount of $5.9 million will be available to assist communities impacted by other recent disasters. EDA will consider projects dealing with local, regional or statewide issues that are related to disaster response and recovery from Hurricane Floyd as well as such projects responding to other recent disasters.

DATES: Proposals and applications in response to the Hurricane Floyd disaster will be accepted on a continuous basis until the funds have been expended. Proposals for other recent disasters must be received by May 21, 2001 to be considered for funding.

ADDRESSES: Addresses for EDA's six regional offices and Economic Development Representatives (EDRs) for the states of New Jersey, North Carolina and Virginia are provided at the end of this notice.

FOR FURTHER INFORMATION: Interested parties should contact the appropriate regional office or EDR as shown at the end of this notice.

SUPPLEMENTARY INFORMATION:

I. Economic Adjustment Assistance

(Catalog of Federal Domestic Assistance (CFDA) No.11.307)

II. Funding Availability

Funds in the amount of $55.8 million are available and shall remain available until expended. These funds are provided under the Military Construction Appropriations Act, 2001; FY 2000 Supplemental Appropriations (PL 106–246), July 13, 2000, to be transferred to the Department of Commerce from the Department of Agriculture. Such funds will be administered under Section 209 of the Public Works and Economic Development Act of 1965, as amended (PWEDA), unless otherwise determined by the Assistant Secretary.

III. Eligibility

Information on eligibility requirements for applicants and areas can be found in EDA's regulation at 13 CFR Chapter III and EDA's NOFA of January 24, 2000, which describes area ''Special Need'' criteria.

Area Eligibility: 13 CFR 301.2(h) provides that EDA describes in a NOFA, special needs criteria under 13 CFR 301.2(b)(3). In EDA's NOFA of January 24, 2000, EDA describes, among other special needs criteria, the following:

''Natural or other major disasters or emergencies. An area that has received one of the following disaster declarations is eligible for EDA assistance for a period of 18 months after the date of declaration, unless further extended by the Assistant Secretary:

1. A Presidential Disaster Declaration authorizing FEMA Public Assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (Public Law 93–288, 42 U.S.C. 5121 *et seq.*) * * *'' (65 FR 3763 at 3766, January 24, 2000).

Given the lapse of time from the Presidential disaster declaration for Hurricane Floyd and this notice of availability of funds, the time period for area eligibility is hereby extended by the Assistant Secretary beyond the 18-month period to September 30, 2001, for Presidentially declared Hurricane Floyd disaster areas.

Area eligibility is reviewed at the time that EDA invites an application under 13 CFR 308 and is based on the most recent Federal data available for the area where the project will be located or where the substantial direct benefits will be received. If no Federal data are available to determine eligibility, an applicant must submit to EDA the most recent data available for the area through the government of the State in which the area is located, *i.e.*, conducted by or at the direction of the State government. Project areas must be eligible on the date of submission of the application. In the case of any application received by EDA more than six months prior to the time of award, EDA will reevaluate the project to determine that the area remains eligible for EDA assistance before making the award.

EDA will reject any documentation of eligibility that it determines is inaccurate.

IV. Grant Rates

Pursuant to EDA's regulations at 13 CFR 301.4(b) and 301.4(f), projects under part 308 located in Presidentially-declared disaster areas for which EDA invites an application for assistance under a supplemental appropriation, within 18 months of declaration, qualify for a higher grant rate of up to 80%. Projects that respond to other recent disasters may qualify for a maximum grant rate of 80%. There is no provision in EDA's regulations at 13 CFR 301.4(b)(5), to extend the 18-month maximum grant rate eligibility period. After expiration of the special eligibility, areas will revert to the grant rates for which they are eligible as otherwise prescribed by EDA's regulations at 13 CFR 301.4(b).

V. Selection Process

EDA will review proposals to evaluate eligibility, evaluation criteria, and funding priorities before inviting a full application for final funding consideration. It is anticipated that proposals will exceed the amount of funding available. Interested parties should submit proposals directly to the appropriate EDR or to the regional office listed at the end of this notice, using the standard preapplication form for EDA assistance (ED–900P, OMB Control No. 0610–0094).

EDA will evaluate project proposals in accordance with as appropriate, 13 CFR part 304, and 13 CFR 308.4 (65 FR 2530 at 2532, January 18, 2000), and the criteria will be approximately of equal importance.

Proposals under this funding announcement must demonstrate how the EDA assistance will help the eligible area recover from the economic adjustment problems caused by Hurricane Floyd or other recent disasters. Proposals for construction and RLFs grants must also demonstrate that the request for assistance has been preceded by sound planning, consistent with EDA regulations at 13 CFR 301.3.

In meeting EDA requirements for a strategy or Comprehensive Economic Development Strategy (CEDS), EDA may accept for example: a State Emergency Recovery Plan, or the product of an equivalent state or local strategic economic recovery planning process with short-term and long-term goals.

Given the limited funds available from this appropriation, applicants must be able to demonstrate need based on physical damage or economic impact resulting from the disaster.

After consideration under EDA's evaluation criteria, EDA will consider the following funding priorities which will be the basis for selecting applications to be funded under this Notice. Priority numbers (1) and (2) are roughly equivalent and more important than the others. The funding priorities are as follows:

1. Projects located in areas that suffered the highest levels of economic injury as a result of the disaster, as compared to other disaster areas.

2. Projects located in disaster impacted areas that had previously been experiencing high levels of economic distress.

3. Projects which leverage EDA funds with state, local, private, and other Federal assistance efforts.

4. Projects that restore, upgrade or enhance the reliability of critical infrastructure/public facilities to current building, environmental, and safety standards or codes, and are essential to stabilizing the economic base of the disaster area.

5. Projects that enhance/stimulate sustainable economic development and/or otherwise mitigate the physical and/or economic dislocation that could be caused by recurring future disasters.

6. Projects that assist the restoration of businesses, stimulate the development of new businesses and accelerate the development of new job opportunities for dislocated individuals within the affected areas.

7. Projects that enhance opportunities for economic diversification.

VI. Program Tools

Planning—There should be a clear and documented nexus between the project and the disaster. Planning projects should concentrate on early disaster economic recovery goals in accordance with EDA's CEDS process [requiring incidental technical assistance, as appropriate].

Construction—In addition to the real property requirements at 13 CFR 314.7, applicants are expected to submit satisfactory evidence of rights of entry assuring prompt access to project property at time of award in those cases where applicants do not hold title to all real property required for the projects at time of application. Where appropriate, incidental on-site technical assistance should be incorporated into construction projects for project administration to successfully meet the terms and conditions of the grant. The objective is to accomplish project implementation quickly and efficiently, so that benefits of the recovery activity take effect as soon as possible.

Revolving Loan Fund (RLF)—EDA may consider providing RLF assistance to: (1) Assist small and emerging businesses and to (2) meet local infrastructure needs. EDA RLF assistance will be coordinated to avoid duplication of other available federal assistance. RLF grantees must incorporate an ''exit strategy'' acceptable to EDA for the continued use of the RLFs after the need for disaster recovery has abated.

Where grant funds are used to support RLFs, it is expected that priority consideration will be given to eligible borrowers who were impacted by the disaster and/or other borrowers who can contribute to the economic stabilization of the area after the disaster, particularly through the creation of job opportunities that may be less vulnerable to future disasters.

VII. Other Information and Requirements

EDA regulations at 13 CFR Chapter III and 65 FR 2530, January 18, 2000, are available from EDA offices listed in section VIII. EDA Contact Information and from the EDA Web site at www.doc.gov/eda.

Certain Departmental and other requirements are noted below. Additional information is available through links to EDA's web site at www.doc.gov/eda or from the appropriate EDA offices listed in section VIII. EDA Contact Information.

A. Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This notice involves a collection of information requirement subject to the provisions of the PRA and has been approved by OMB under Control Number 0610–0094.

B. All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations are hereby provided: Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;

Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, ''Drug-Free Workplace Requirements (Grants)'' and the related section of the certification form prescribed above applies;

Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

C. Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, Appendix B.

D. The implementing regulations of the National Environmental Policy Act (NEPA) require EDA to provide public notice of the availability of project specific environmental documents such as environmental impact statements, environmental assessments, findings of no significant impact, records of decision etc., to the affected public as specified in 40 CFR 1506.6(b).

Depending on the project location, environmental information concerning specific projects can be obtained from the Regional Environmental Officer in the appropriate EDA regional office listed at the end of this notice.

E. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–511, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL ''Disclosure of Lobbying Activities.'' Form CD–511 is intended for the use of recipients and should not be transmitted to DoC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DoC in accordance with the instructions contained in the award document.

F. No award of Federal funds will be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full;

2. A negotiated repayment schedule is established and at least one payment is received; or

3. Other arrangements satisfactory to DoC are made.

G. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

H. Applicants should be aware that a false statement on the application is grounds for denial of the application or termination of the grant award and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

I. Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

J. Applicants seeking an early start, *i.e.,* to begin a project before EDA approval, must obtain a letter from EDA allowing such early start. The letter allowing the early start will be null and void if the project is not subsequently approved for funding by the grants officer. Approval of an early start does not constitute project approval. Applicants should be aware that if they incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DoC to cover preaward costs. Additionally, EDA also requires that compliance with environmental regulations, in accordance with the National Environmental Policy Act, be completed before construction begins.

K. If an application is selected for funding, EDA has no obligation to provide any additional future funding in connection with an award. Renewal of an award to increase funding or extend the period of performance is at the sole discretion of EDA.

L. Unless otherwise noted herein, eligibility, program objectives, application procedures, selection procedures, evaluation criteria and other requirements for all programs are set forth in EDA's regulations at 13 CFR Chapter III and 65 FR 2530, January 18, 2000.

M. EDA is not authorized to provide any financial assistance directly to individuals for the purpose of starting a new business or expanding an existing business.

This notice has been determined to be not significant for purposes of Executive Order 12866.

VIII. EDA Contact Information

Interested parties should contact the appropriate EDR or the regional office listed below:

William J. Day, Regional Director, Atlanta Regional Office, 401 West Peachtree Street, N.W., Suite 1820, Atlanta, Georgia 30308–3510, Telephone: (404) 730–3002, Internet Address: *WDay1@doc.gov*

Atlanta region	State covered
Patricia M. Dixon, Economic Development Representative, P.O. Box 1707, Lugoff, SC 29078; Telephone: (803) 408–2513; Internet Address: *Pdixon@doc.gov*.	North Carolina (Eastern).

Paul M. Raetsch, Regional Director, Philadelphia Regional Office, Curtis Center—Suite 140 South, Independence Square West, Philadelphia, Pennsylvania 19106; Telephone: (215) 597–4603; Internet Address: *Praetsch@doc.gov*

Philadelphia region	State covered
Neal E. Noyes, Economic Development Representative, Federal Building, Room 474, 400 North 8th Street, P.O. Box 10229, Richmond, Virginia 23240–1001; Telephone: (804) 771–2061; Internet Address: *Nnoyes@doc.gov*.	Virginia.
Edward Hummel, Economic Development Representative, Curtis Center—Suite 140 South, Independence Square West, Philadelphia, Pennsylvania 19106; Telephone: (215) 597–6767; Internet Address: *Ehummel@doc.gov*.	New Jersey.

Pedro R. Garza, Regional Director, Austin Regional Office, 327 Congress Avenue, Suite 200, Austin, Texas 78701–4037; Telephone: (512) 381–8144; Fax: (512) 381–8177; Internet Address: *pgarza1@doc.gov*

C. Robert Sawyer, Regional Director, Chicago Regional Office, 111 North Canal Street, Suite 855, Chicago, Illinois 60606; Telephone: (312) 353–7706; Fax: (312) 353–8575; Internet Address: *rsawyer@doc.gov*

Anthony J. Preite, Regional Director, Denver Regional Office, 1244 Speer Boulevard, Room 670, Denver, Colorado 80204; Telephone: (303) 844–4715; Fax: (303) 844–3968; Internet Address: *apreite@doc.gov*

A. Leonard Smith, Regional Director, Seattle Regional Office, Jackson Federal Building, Room 1856, 915 Second Avenue, Seattle, Washington 98174; Telephone: (206) 220–7660; Fax: (206) 220–7669; Internet Address: *LSmith7@doc.gov*

Dated: November 17, 2000.

Arthur C. Campbell,

Assistant Secretary, for Economic Development.

[FR Doc. 00–29958 Filed 11–22–00; 8:45 am]

BILLING CODE 3410–24–P

Reader Aids

Federal Register

Vol. 65, No. 227

Friday, November 24, 2000

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids — **202–523–5227**

Laws — **523–5227**

Presidential Documents

Executive orders and proclamations — **523–5227**

The United States Government Manual — **523–5227**

Other Services

Electronic and on-line services (voice) — **523–4534**

Privacy Act Compilation — **523–3187**

Public Laws Update Service (numbers, dates, etc.) — **523–6641**

TTY for the deaf-and-hard-of-hearing — **523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@www.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

65253–65704 1
65705–66164 2
66165–66482 3
66483–66600 6
66601–66922 7
66923–67248 8
67249–67604 9
67605–68064 13
68065–68870 14
68871–69236 15
69237–69430 16
69431–69654 17
69655–69848 20
69849–70272 21
70273–70460 22
70461–70642 24

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
1694 (See Proc. 7373) 69221
1843 (See Proc. 7373) 69221
1916 (See Proc. 7373) 69221
2499 (See Proc. 7373) 69221
3506 (See Proc. 7373) 69221
7370 67247
7371 67605
7372 68871
7373 69221
7374 69227
7375 69231
7376 69235
7377 69653
7378 69849
7379 70273
7380 70275
7381 70277

Executive Orders:
12866 (See EO 13175) 67249
12988 (See EO 13175) 67249
13067 (See Notice of October 31, 2000) 66163
13084 (Revoked by EO 13175) 67249
13132 (See EO 13175) 67249
13174 65705
13175 67249

Administrative Orders:

Memorandums:
Memorandums of April 29, 1994 (See EO 13175) 67249
October 31, 2000 66599

Notices:
October 31, 2000 66163
November 9, 2000 68061
November 9, 2000 68063

Presidential Determinations:
No. 2001–03 of October 28, 2000 66843

4 CFR

Ch. II 70405

5 CFR

1209 67607
2634 69655
2635 69655
2638 69655

7 CFR

52 66485
250 65707
251 65707
272 70134
273 70134
274 70134
277 70134
301 66487
718 65718
905 ..... 66601, 69851
928 70279
929 65707
931 65253
944 66601
946 70461
947 66489
966 66492
1011 70464
1411 65709
1421 65709
1424 67608
1427 ..... 65709, 65718
1434 65709
1439 65709
1447 65709
1464 65718
1469 65718
1710 69657
2812 69856

Proposed Rules:
868 66189
923 67584
927 66935
929 65788
1930 65790
1944 65790

8 CFR

103 67616
214 67616

9 CFR

77 70284
78 68065
93 ..... 67617, 69237
94 65728
97 65729

Proposed Rules:
130 67657

10 CFR

110 70287

Proposed Rules:
35 65793
430 ..... 66514, 70386

11 CFR

Proposed Rules:
100 66936
102 66936
104 66936

12 CFR

204 69857

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 24, 2000

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Soybean promotion and research order; published 10-25-00

ENVIRONMENTAL PROTECTION AGENCY
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Emergency exemptions; time-limited tolerances; published 10-25-00

HEALTH AND HUMAN SERVICES DEPARTMENT
Children and Families Administration
Grants and cooperative agreements; availability, etc.:
Title IV-E foster care eligibility reviews and child and family services State plan reviews; correction; published 11-24-00

HEALTH AND HUMAN SERVICES DEPARTMENT
Health insurance reform:
Health Insurance Portability and Accountability Act of 1996; electronic transactions standards; administrative requirements
Correction; published 11-24-00

HEALTH AND HUMAN SERVICES DEPARTMENT
Inspector General Office, Health and Human Services Department
Health care programs; fraud and abuse:
Health Insurance Portability and Accountability Act—
Data collection program; final adverse actions reporting; correction; published 11-24-00

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Critical habitat designations—
Coastal California gnatcatcher; published 10-24-00

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program amd abandoned mine land reclamation plan submissions:
Texas; published 11-24-00
Permanent program and abandoned mine land reclamation plan submission:
Colorado; published 11-24-00

NATIONAL CREDIT UNION ADMINISTRATION
Privacy Act; implementation; published 10-25-00

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; published 10-20-00
Boeing; published 10-20-00
Israel Aircraft Industries, Ltd.; published 10-20-00
Lockheed; published 10-20-00

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Raisins produced from grapes grown in—
California; comments due by 11-27-00; published 9-27-00

COMMERCE DEPARTMENT
Export Administration Bureau
Export administration regulations:
Foreign policy-based export controls; effects on exporters and general public; comments due by 11-30-00; published 11-6-00

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Bering Sea snow crab; overfished stock rebuilding; comments due by 11-28-00; published 9-29-00
Magnuson-Stevens Act provisions—
Domestic fisheries; exempted fishing permits; comments due by 11-28-00; published 11-13-00
Marine mammals:
Incidental taking—
Harbor porpoise take reduction plan; comments due by 11-27-00; published 10-27-00
Taking and importing—
Beluga whales; Cook Island, AK, stock; comments due by 11-27-00; published 10-4-00

COMMODITY FUTURES TRADING COMMISSION
Commodity Exchange Act:
Futures commission merchants; daily computation of amount of customer funds required to be segregated; amendments; comments due by 11-30-00; published 10-31-00

ENERGY DEPARTMENT
Energy Efficiency and Renewable Energy Office
Consumer products; energy conservation program:
Electric distribution transformers; efficiency standards; comments due by 12-1-00; published 10-6-00

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Leather finishing operations; comments due by 12-1-00; published 10-2-00
Air quality implementation plans; approval and promulgation; various States:
Connecticut; comments due by 11-27-00; published 10-27-00
Massachusetts; comments due by 11-27-00; published 10-27-00
Missouri; comments due by 11-27-00; published 10-26-00
Texas; comments due by 11-27-00; published 10-26-00
Wisconsin; comments due by 11-27-00; published 10-26-00
Air quality planning purposes; designation of areas:
Washington; comments due by 12-1-00; published 11-16-00
Hazardous waste program authorizations:
Arizona; comments due by 11-27-00; published 10-27-00
Tennessee; comments due by 11-27-00; published 10-26-00
Utah; comments due by 11-30-00; published 10-16-00
Vermont; comments due by 11-27-00; published 10-26-00
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Flucarbazone-sodium; comments due by 11-28-00; published 9-29-00
Triallate; comments due by 11-28-00; published 9-29-00
Toxic substances:
Polychlorinated biphenyls (PCBs)—
PCB waste return from U.S. territories outside U.S. Customs Territory; comments due by 12-1-00; published 11-1-00

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Federal-State Joint Board on Universal Service—
Oncor Communications, Inc.; forbearance petition; comments due by 11-30-00; published 11-9-00
Digital television stations; table of assignments:
Louisiana; comments due by 11-27-00; published 10-10-00
Nevada; comments due by 11-27-00; published 10-6-00
New York; comments due by 11-27-00; published 10-6-00
South Carolina; comments due by 11-27-00; published 10-6-00
Radio stations; table of assignments:
Arizona; comments due by 12-1-00; published 10-31-00
Various States; comments due by 12-1-00; published 10-31-00

GENERAL SERVICES ADMINISTRATION
Federal Management Regulation:
Personal property—
Replacement pursuant to exchange/sale authority; comments due by 11-27-00; published 9-26-00

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Medical devices:

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 782/P.L. 106–501
Older Americans Act Amendments of 2000 (Nov. 13, 2000; 114 Stat. 2226)

H.R. 1444/P.L. 106–502
Fisheries Restoration and Irrigation Mitigation Act of 2000 (Nov. 13, 2000; 114 Stat. 2294)

H.R. 1550/P.L. 106–503
To authorize appropriations for the United States Fire Administration, and for carrying out the Earthquake Hazards Reduction Act of 1977, for fiscal years 2001, 2002, and 2003, and for other purposes. (Nov. 13, 2000; 114 Stat. 2298)

H.R. 2462/P.L. 106–504
To amend the Organic Act of Guam, and for other purposes. (Nov. 13, 2000; 114 Stat. 2309)

H.R. 2498/P.L. 106–505
Public Health Improvement Act (Nov. 13, 2000; 114 Stat. 2314)

H.R. 3388/P.L. 106–506
Lake Tahoe Restoration Act (Nov. 13, 2000; 114 Stat. 2351)

H.R. 3621/P.L. 106–507
To provide for the posthumous promotion of William Clark of the Commonwealth of Virginia and the Commonwealth of Kentucky, co-leader of the Lewis and Clark Expedition, to the grade of captain in the Regular Army. (Nov. 13, 2000; 114 Stat. 2359)

H.R. 5239/P.L. 106–508
To provide for increased penalties for violations of the Export Administration Act of 1979, and for other purposes. (Nov. 13, 2000; 114 Stat. 2360)

S. 700/P.L. 106–509
Ala Kahakai National Historic Trail Act (Nov. 13, 2000; 114 Stat. 2361)

S. 938/P.L. 106–510
Hawaii Volcanoes National Park Adjustment Act of 2000 (Nov. 13, 2000; 114 Stat. 2363)

S. 964/P.L. 106–511
To provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes. (Nov. 13, 2000; 114 Stat. 2365)

S. 1474/P.L. 106–512
Palmetto Bend Conveyance Act (Nov. 13, 2000; 114 Stat. 2378)

S. 1482/P.L. 106–513
National Marine Sanctuaries Amendments Act of 2000 (Nov. 13, 2000; 114 Stat. 2381)

S. 1752/P.L. 106–514
Coastal Barrier Resources Reauthorization Act of 2000

(Nov. 13, 2000; 114 Stat. 2394)

S. 1865/P.L. 106–515
America's Law Enforcement and Mental Health Project (Nov. 13, 2000; 114 Stat. 2399)

S. 2345/P.L. 106–516
Harriet Tubman Special Resource Study Act (Nov. 13, 2000; 114 Stat. 2404)

S. 2413/P.L. 106–517
Bulletproof Vest Partnership Grant Act of 2000 (Nov. 13, 2000; 114 Stat. 2407)

S. 2915/P.L. 106–518

Federal Courts Improvement Act of 2000 (Nov. 13, 2000; 114 Stat. 2410)

H.R. 4986/P.L. 106–519

FSC Repeal and Extraterritorial Income Exclusion Act of 2000 (Nov. 15, 2000; 114 Stat. 2423)

H.J. Res. 125/P.L. 106–520

Making further continuing appropriations for the fiscal year 2001, and for other purposes. (Nov. 15, 2000; 114 Stat. 2436)

Last List November 16, 2000

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to http://hydra.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.